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DOMINION LE ISLATURE
CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

The Speaker

The Honourable Mr. G. V. Mavalankar.

The Deputy-Speaker

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

Secretary

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

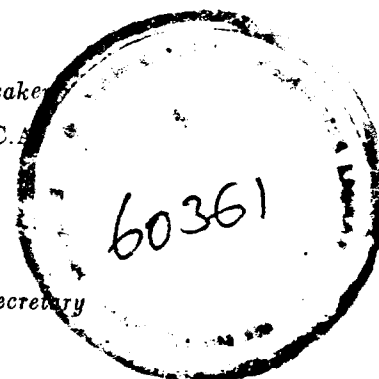
Assistants of the Secretary

Mr. A. J. M. Atkinson.

Mr. N. C. Nandi.

Mr. D. N. Majumdar.

Mr. C. V. Narayana Rao.



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GOVERNMENT OF INDIA
MEMBERS OF THE CABINET

The Honourable Shri Jawaharlal Nehru—Prime Minister and Minister of External Affairs.
The Honourable Sardar Vallabhbhai Patel—Deputy Prime Minister and Minister of Home Affairs and the States.
The Honourable Maulana Abul Kalam Azad—Minister of Education.
The Honourable Dr. John Matthai—Minister of Finance.
The Honourable Sardar Baldev Singh—Minister of Defence.
The Honourable Shri Jagjivan Ram—Minister of Labour.
The Honourable Mr. Rafi Ahmad Kidwai—Minister of Communications.
The Honourable Rajkumari Amrit Kaur—Minister of Health.
The Honourable Dr. B. R. Ambedkar—Minister of Law.
The Honourable Dr. Syama Prasad Mookerjee—Minister of Industry and Supply.
The Honourable Shri N. V. Gadgil—Minister of Works, Mines and Power.
The Honourable Shri K. C. Neogy—Minister of Commerce.
The Honourable Shri N. Gopalaswami Ayyangar—Minister of Transport and Railways.
The Honourable Shri Jairamdas Doulatram—Minister of Food and Agriculture.

MINISTERS NOT IN THE CABINET

The Honourable Shri Mohan Lal Saksena—Minister of State for Rehabilitation.
The Honourable Shri K. Santhanam—Minister of State for Transport and Railways.
The Honourable Shri R. R. Diwakar—Minister of State for Information and Broadcasting.
The Honourable Shri Satyanarayan Sinha—Minister of State for Parliamentary Affairs.

DEPUTY MINISTERS

Shri Khurshed Lal—Deputy Minister of Communications.
Dr. B. V. Keskar—Deputy Minister of External Affairs.

THE
CONSTITUENT ASSEMBLY OF INDIA
(LEGISLATIVE) DEBATES

OFFICIAL REPORT OF THE SIXTH SESSION OF THE CONSTITUENT
ASSEMBLY (LEGISLATIVE)

VOLUME VI—1949

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Monday, 28th November, 1949.

The Assembly met in the Assembly Chamber of the Council House at New Delhi, at a Quarter to Eleven of the Clock, being the First Day of the Sixth Session of the Constituent Assembly of India (Legislative), pursuant to subsection (2) (a) of Section 19 of the Government of India Act, 1935, as adapted by the India (Provisional Constitution) Order, 1947. Mr. Speaker (The Honourable Mr. G. V. Mavalankar) was in the Chair.

QUESTIONS AND ANSWERS

[See Part I]

11-45 A.M.

DEATH OF MR. ARDESHIR DALAL, SYED MD. MURTUZA SAHIB,
HAJI JAMAL MD. SAHEB AND MR. AZIZ AHMED KHAN

Mr. Speaker: Before we proceed with the normal business of the House, I have to make a few obituary references to three persons who were Members of this House or its predecessor.

The House knows well the late Mr. Ardeshir Dalal. He was qualified for the Indian Civil Service. Later he became one of the greatest industrial magnates in Western India. He was a close associate of Dr. Sapru during the Non-Party Conference in 1941 and he made a substantial contribution to politics when in May 1943 he issued a pamphlet under the caption "An Alternative to Pakistan". He was appointed a Member of the Viceroy's Executive Council in 1944 and was in charge of Planning and Development till the end of 1945. He died in Bombay rather prematurely.

[Mr. Speaker]

The other person to whom I would refer is Syed Mohd. Murtuza Sahib. He was a prominent member of the Muslim community in Madras. He was a member of the Haj Committee and was elected to the Central Legislative Assembly four times. He was also a member of the Legislative Council in Madras. He died at the very ripe age of 95 at Trichy.

The third person is Haji Jamal Mohammed Saheb. He was elected to the Central Legislative Assembly in 1930 and was also President of the Federation of Indian Chambers of Commerce in 1931. He was a close associate of Mahatma Gandhi and was leader of the Nationalist Muslims of South India. He attended the Round Table Conference. He died at Madras rather prematurely at the age of 61.

I am sure the House will join with me.....

Begum Aizaz Rasul ((U.P.: Muslim): You have omitted to mention Aziz Ahmed Khan.

Mr. Speaker: I may mention his name also. I was not aware of his demise. The House will join with me. I am sure, in expressing our deep sorrow at the demise of these persons and offer our condolences to their families. The House will now stand, as a mark of respect to the deceased.

MOTIONS FOR ADJOURNMENT

SHORTAGE OF SUGAR.

Mr. Speaker: The next business is certain adjournment motions of which I have received notice. The members who have sent notices are Mr. Ajit Prasad Jain, Sardar Hukam Singh, Mr. Lakshminarayan Sahu and Mr. Chacko. I should like to know if they are keen on moving their motions before I place them before the House and give my ruling.

Shri Ajit Prasad Jain (U.P.: General): So far as I am concerned I understand that the Government is prepared to allot some time for the discussion of the subject matter of my adjournment motion. If that be so, I am not eager to move my motion. On the contrary, if my information is not correct I would like.....

Mr. Speaker: I take it that the information is correct. Then I need not take up the time of the House. The same thing will then apply to the adjournment motion of Sardar Hukam Singh. The motion relates to the shortage of sugar in the country as a consequence of the abnormal rise in prices.

Sardar Hukam Singh (East Punjab: Sikh): I was not aware that the other adjournment motion also related to the same subject matter.

Mr. Speaker: It is on the same subject, shortage of sugar. Therefore these two motions are disposed of.

Shri Mahavir Tyagi (U.P.: General): May I know as to when the Government would arrange for a discussion on this?

Mr. Speaker: In due course before the session ends.

IMPORT OF COCOANUT AND ITS PRODUCTS FROM CEYLON

Mr. Speaker: The other thing is the adjournment motion of Mr. Chacko. Is the hon. Member present here? Does he propose to move that motion? The motion is "to discuss a definite matter of urgent public importance, viz., the difficulties caused to the cocoanut producers in India, by the permission

recently given by the authorities concerned for the import of cocoanut (copra) and its products from Ceylon."

The Honourable Shri K. C. Neogy (Minister of Commerce): Sir, I am in charge of this subject. I should like to point out that the last question on today's question list which was going to be asked by my hon. Friend himself, raises this very issue, and the answer, I think, will be placed on the Table in the usual course. The motion, I may add, is based on a misapprehension. There is no question of any permission recently given in regard to this matter. There was no prohibition of the importation of cocoanut at any time. That is what I have got to say.

Shri P. T. Chacko (United State of Travancore and Cochin): I do not press the motion nor the other motion which also stands in my name.

Mr. Speaker: Which other motion? There is only one motion by the hon. Member. The other motion is by Mr. Lakshminarayan Sahu. In any case, he does not want to press it.

BAN ON THE NATIONALIST.

Mr. Speaker: The other motion is by Mr. Lakshminarayan Sahu "for the purpose of discussing a definite matter of urgent public importance, viz., the banning of English weekly newspaper *Nationalist* of Delhi, by the Chief Commissioner of Delhi, for three months without even consulting the Central Press Advisory Committee appointed by the All-India Newspaper Editors' Conference, for publishing some article therein relating to the Kashmir affair criticising the policy of the present Government of India in that behalf, thereby infringing the very elementary fundamental right of the liberty of the press to criticise actions of the executive government in a democratic country."

The Honourable Sardar Vallabhbhai Patel (Minister of Home Affairs and the States): The facts of the banning of the paper called *Nationalist* are as follows. The Editor of the paper is one Mr. Horilal Saksena. It seems that this is an extremely nationalist paper. It wrote a series of articles of a scurrilous and libellous character on Kashmir and the Governor-General. They were calculated to promote class hatred. The matter was discussed by the Press Advisory Committee before whom it was placed, and the Press Advisory Committee asked for his explanation. The Editor submitted a long-winded and elaborate explanation which was characterised by the Committee as provocative and intemperate. The Committee, after considering the whole matter, came to the conclusion that the writings were objectionable and actionable. It therefore decided that the paper should be warned. This warning was conveyed to the Editor. Rather than submit to the warning, the Editor published his explanation to which objection had already been taken by the Committee. The paper followed this by publishing an article from another paper to which the Press Advisory Committee had taken objection. In view of the defiant and persistently objectionable attitude that it continued by publishing scurrilous and objectionable articles, the Commissioner took action against this paper in anticipation of discussion by the Press Advisory Committee. His action was therefore justifiable. The matter has been placed before the Press Advisory Committee and it is under discussion by that Committee.

Mr. Speaker: I do not think any further explanation is now needed on the part of the hon. Member. In fact the sub-stratum of the reasoning given in his motion is not there, inasmuch as the Press Advisory Committee has expressed its opinion. I do not think that this matter is fit for an adjournment motion and so we proceed to the next item.

STATEMENT RE LEGISLATIVE BUSINESS AND CERTAIN OTHER MATTERS

The Honourable Shri Jawaharlal Nehru (Prime Minister): By your permission, I should like to make a statement in regard to the work before the House and certain other matters. This session is intended to last till I believe the 23rd December, that is about 3½ weeks from now and during this session a great deal of work has to be done, as hon. Members are aware from the papers supplied to them. We are not taking, if I may say so, any matter which takes a great deal of time, any very complicated Bill which might take a long time, nevertheless we have to deal with.....

Pandit Lakshmi Kanta Maitra (West Bengal: General): Except the Hindu Code.

The Honourable Shri Jawaharlal Nehru: I was coming to that specifically as I am particularly interested and I think it need not take much time before we get through a simple and essential measure but during the next session. First of all in the Budget session we shall have to deal with very important matters no doubt. But in this session we have first, if the House so wills, to replace the ordinances that have been passed by enactments. We have also to pass a number of Bills which are small and simple but which remove certain defects and difficulties which have come in our way, for instance, even in today's Order Paper there are a number of Bills for consideration and passage today. They are very simple and I think, probably the House will agree to them. There are a few other matters which are rather important and which do not offer any grave difficulty or require, I think, any long consideration. There is a Merged States Extension of Laws Bill; there is a Bill to amend the Indian Insurance Act and certain other Bills, which the House has got before it in the papers supplied. Now a certain number of small Bills will be placed before the House and I find that there are certain motions for the appointment of a Select Committee to consider them. I would submit to the House that those details are so simple that reference to a Select Committee is hardly necessary, but it is for the House to decide.

Now an hon. Member just referred to the Hindu Code that is before us. Nobody thinks of course of finally passing that Bill in this Session; that is not intended. We have arrived at the stage in that Bill when it is a purely preliminary stage, although we have taken some years to reach it. Even this stage has been considered for, I believe, five or six or seven days; this may be called the first stage of the second reading before we go on to the clause by clause consideration of the Bill. This House will remember certain marathon performances in the last session in regard to this Bill, which no doubt were permitted by the law. I would beg this House to consider that this does not add to the credit of this House, because we want.....

Pandit Lakshmi Kanta Maitra: How could you say that it did not give credit to the House? It is a reflection on the House.

The Honourable Shri Jawaharlal Nehru: The hon. Member will permit me to continue. I will explain what I mean. What I mean is this that any important measure in this House should be fully considered; any measure which gives rise to difference of opinion, on which there is considerable strength of opinion must be considered fully and full time should be given, but when a tactic is adopted which is not of consideration but of pure and absolute delay, that is improper.

Pandit Lakshmi Kanta Maitra: That does arise out of it. I do protest against this observation.

The Honourable Shri Jawaharlal Nehru: The hon. Member is needlessly objecting to what I say. I am laying down a principle and I would like him or any other hon. Member to object to that principle; I am not referring to any particular thing, and I do say that if this principle is not followed, it does not lead to the credit of the House being enhanced.

Shri H. V. Kamath (C.P. and Berar: General): Is it not for the Speaker to regulate the proceedings of the House?

Mr. Speaker: Yes, and therefore the hon. Members should not interrupt now.

Shri H. V. Kamath: I bow to your ruling, but such rulings apply to all including the Ministers.

The Honourable Shri Jawaharlal Nehru: This measure has been before this House in the present stage for some time; it has come up again. Now it is clear that there is a variety of opinion in regard to this measure, that there are, one may say, at least two sets of opinions, one strongly in favour of it and the other opposed to it or opposed to some parts of it rather. It is clear also that one must not deal with a measure of this kind either by trying to sweep away one opinion or the other in a hurry; we must give it the fullest consideration at the same time and further it is also clear that measures affecting large numbers of human beings, their social customs, etc. have to be given the fullest consideration. I would submit for the consideration of the House that our proceeding with this Hindu Code merely in a spirit of sheer opposition to each other, well naturally, may lead to certain ultimate results certain decisions, but will not be very helpful either now or later—and I am speaking for the moment for myself and I think the Government—it would be desirable for us, for the House as soon as a detailed consideration comes or a little before it to approach this matter, that is for representatives of different view-points to approach this matter in a more constructive way, to see how we can expedite the passage of this Bill, with what might be considered a large measure of consent. It is very difficult to aim at universal consent to anything, but with as large a measure of consent as possible. So, if I may suggest to the House.....

Pandit Lakshmi Kanta Maitra: A constructive suggestion in respect of a destructive measure.

The Honourable Shri Jawaharlal Nehru: The hon. Member is one of those persons who holds apparently rather strong opinion on this subject. Now even though I express myself in mild language, I hold even stronger opinion than he does on this subject.

Shri Mahavir Tyagi (U.P.: General): That is the real trouble.

The Honourable Shri Jawaharlal Nehru: What is more, the Government is committed to this thing. It is going through with it. (*Hear, hear.*) On behalf of the Government I offer a *via media*; I offer a mid approach and if the House accepts it, we shall welcome it and if not we shall proceed with the Bill as it is. I am speaking of the view-point of the Government but we are anxious.....

Pandit Lakshmi Kanta Maitra: In a social measure will you force it?

The Honourable Shri Jawaharlal Nehru: If the Government puts forward a measure it is for the House to accept it or reject it. The Government cannot do it by force.

Pandit Lakshmi Kanta Maitra: You said that.

The Honourable Shri Jawaharlal Nehru: I said that Government would proceed with that. It is for this House to accept a measure, but if a Government takes an important measure and the House rejects it, the House rejects that Government and the Government goes and another Government comes in its place. It should be clearly understood that this is one of the important measures to which the Government attaches importance and on which it will stand or fall.

An Honourable Member: It won't exist.

The Honourable Shri Jawaharlal Nehru: That is the basis and because I do not wish to put it in that extreme way, I suggested to the House that this might be taken in an accommodating way so that it might be passed by general consent. If hon. Members do not like that course, then automatically the other course comes into operation. Now, so that, if I may suggest it, in the course of this session this first stage of the second reading might be considered, might be, I hope, passed and then before the next stage of detailed consideration comes formally or informally or in both ways the different view-points might be represented in a Committee and might see how this general consent can be arrived at in regard to this Bill, even though it might lead to certain alterations or variations in the present Bill.

Now, Sir, in regard to other matters before the country and the House, obviously the most important matter facing us might be called in general terms, the economic issue. It is most important and basic. I do not propose to say anything about that at this stage, because it is too big a subject. Parts of it at any rate will be dealt with by my colleague, the Finance Minister, at a later stage by various statements which he will make to this House and I have no doubt that this House itself will consider the matter in various forms and shapes during this session or more fully during the next session. I will not say much except that obviously it is of the most vital importance that we should frame a policy and give effect to that so as to get over our economic difficulties as rapidly as possible.

The House knows that the greatest stress has been laid by us on the question of food, because we have thought that so long as we are dependent upon other countries for food our whole economic structure is weak. So we have decided to give this priority No. 1. I should like to say that on the whole satisfactory progress is reported on the food front. I say this because I have noticed in some newspapers references to the fear that things were not going well. Of course things are not going well everywhere. There have been natural disasters such as floods and in some places cyclones as in Andhra, which have done a lot of damage not only to human beings but to food expectation from that area. Still, generally speaking, I would say and I do say it on the authority of the Commissioner for Food Production that we are making good progress and I have no doubt in my mind—let it be perfectly clear to the country—that after 1951 no food will be imported. In fact, if I may state it, this period is likely to be shortened, even though it may cause inconvenience. If the necessities of the situation demanded that period will be shortened. Even now we are, on the whole, lessening our import of food, specially rice. In fact we are trying to put an end to the import of rice completely, gradually.

Reference was just made to the sugar position in certain areas in a motion for the adjournment of the House. The sugar position is a very vital one. Sugar is important, but not so important as people imagine. It is perhaps more important than sugar. However, sugar is a vital matter and we must give consideration to it. But what is very disturbing is not the fact that some of us have got sugar and others have not been able to get it but the fact that the sugar position should deteriorate so rapidly and should not be controlled quickly. That is a fact which is very important and we should find out who is particularly responsible for it or guilty of it. There are several factors about

which I am, not for the moment prepared to say much but I am sure my hon. colleague the Food Minister will deal with the situation in a statement before the House on some other day.

May I mention, there has been a lot of talk and sometimes enquiries as to whether there was some kind of a wheat deal when I was in the U.S.A. All this proceeds from a wrong impression as to what I was supposed to do. What we normally do in foreign countries is that our representatives who are there deal with the representatives of the other governments or the trade in other countries. They try to purchase cheaply, whether it is wheat or rice or other goods. That is going on. When I went there I spoke in general terms of our need for wheat and other things. That is all. I did not discuss in detail with anybody. Our representatives were there and are there to continue talks about any purchase, if it is on favourable terms. There is no question of a particular or special deal. One of our representatives who was there, Mr. Deshmukh, will soon be here to report to us the result of his talks. We buy wheat or anything else in the best market on the most favourable terms. If we can get them, if I may say so, on very special terms elsewhere we shall accept them. It is entirely a business deal as to where we can get them most advantageously.

In connection with the economic question I may point out that it raises so many issues and our Government and this House will have to consider them separately or perhaps together later. We have to consider how to co-ordinate our activities more and more and as a Government we are going to give a great deal of thought to this. Of course one of the main problems we have to face is the extremely low productivity in India of various things and till we raise that, it will be difficult for us to have enough wealth to go round for productive purposes.

I should like to say a few words in regard to our relations with Pakistan and foreign affairs generally. I am sorry to say that these relations continue to be strained and with all the efforts that we have made to improve them we have not succeeded in doing so in any large measure. Recently of course since devaluation came and Pakistan followed a different policy other points of strain and conflict have arisen. They have arisen not because we chose to raise them but simply because of the facts of the situation. Pakistan has accused us of deliberately trying to bring pressure upon them, to affect their economy or force them to do this or that in regard to devaluation of their rupee. This charge has been made, more especially I believe in regard to the jute situation. As a matter of fact the facts are quite simple. The price of jute rose so much that those who are buying it in India could not afford to buy it. They simply could not afford it. It was not an economic price for them to buy. This was pointed out to the Pakistan Government, that we could not buy it at their rate and they have to make some other arrangements. The Pakistan Government apparently thinks that this is a deliberate move to coerce them in regard to their economic policy. We do not wish to coerce anybody nor do we wish to be coerced by anybody. They can go their own way but it is quite impossible for us to accept prices in regard to certain commodities if they are too high. This is the simple proposition. I believe my colleague the Finance Minister repeatedly approached Pakistan and suggested that the whole matter should be reviewed and talks should take place but thus far no conference has definitely been arranged.

There are other matters of importance, matters in regard to which there has been a continuing dispute with Pakistan. One very important matter is evacuee property. I need not say much about it except that as far as I can see the only right way to settle it, apart of course from coming to a settlement ourselves, if there is no settlement, there can be discussion and consideration by experts on both sides and further if there is no agreement there may be a reference, if you

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like to some high judicial authority. The only other way seems to me to be to carry on this dispute shouting at each other without any settlement at all. Whether it is the question of evacuee property or the canal water dispute the matter can be examined technically by experts on both sides and thus the area of dispute should be limited. Then that can be considered in a normal way.

Then, finally there is the question of Kashmir. The House knows that this matter is going to be considered by the Security Council in the course of the next few weeks. I do not know when it will be considered because the United Nations Commission has been writing its report in Geneva and they are supposed to go to Lake Success some time in the second week of December. After that they will present their report. It may be considered soon after that, that is in the month of December. Or, if it is delayed, it may be considered early in January. Since the 1st of January last Cease-Fire has subsisted in Kashmir. There have been a number of 'incidents', but generally speaking there has been no resumption of operations. We hope, of course, there will be no such resumption. We have repeatedly made it quite clear that we want this problem of Kashmir, as all problems, settled by peaceful methods without recourse to warfare because we are convinced that warfare leads to disastrous consequences and should be avoided as far as possible. Nevertheless, it cannot be avoided if another party starts it, or if there is aggression one has to meet that. That is why originally we had to go to Kashmir; that is why we have stayed on—that is, our armed forces have stayed on—and we have given assurances not only to the people of Kashmir but to our own people that we will not withdraw our forces from there till there is any danger left of aggression from outside. Now, that is the position in Kashmir. We propose to stay where we are and to protect Kashmir in accordance with our pledged word, to give every help to the people of Kashmir and at the same time to seek ways of solving this problem by peaceful methods. But on the other side, in Pakistan, I regret to say, passions are continually roused on religious grounds, there is a continual talk of *jeihad*, etc., and it is even said by people—responsible leaders—that there is bound to be war and they will have war. Well, I suppose all this talk is perhaps partly due to a feeling of frustration on the other side. I am sorry for that. But so far as we are concerned as a government we do not propose to move this way or that way, either to be moved to anger by the hysteria on the other side or to be moved to any weakness by any threats on the other side. We shall proceed on our even course, always trying for a peaceful settlement of this, trying to help the United Nations which has been in charge of it to find a peaceful settlement and at the same time not surrendering to anything that we consider wrong. That is the position in Kashmir. We shall have to send a deputation, or delegation rather, to Lake Success when this matter is considered by the Security Council.

I should like to inform the House in regard to the question of Indians in South Africa. When I say 'Indians' I should like to make it clear that I am not referring to Indian nationals but Indians by descent who are really South African nationals. We have been for some time past in communication with the Government of South Africa about the holding of a conference to consider these questions. That was the recommendation of the United Nations to us and to all the parties concerned, and immediately after that we suggested the holding of this conference. But there has been great delay in this correspondence. Ultimately the South African Government suggested that before we held the conference itself there should be a preliminary conference to consider what the conference is about and how the conference should proceed. We agreed to that also. Again there has been delay, but now finally a date has been fixed, that is February 6th, when this preliminary conference can take place in Cape Town, and representatives will go to it from India—and Pakistan I presume—to consider these matters.

The House may have also noticed in the press the announcement that the Conference of the Foreign Ministers of the Commonwealth countries is going to be held in Colombo early in January. I believe the 9th has been fixed as the date for it. Now, this Conference was fixed long ago, about a year ago, in fact a little over a year ago. In October 1948 it was decided to hold a conference of Foreign Ministers of the Commonwealth countries sometime in 1949, and Colombo was suggested then. But other things have happened since then and there was an emergent meeting in London in April last of Prime Ministers and so it was decided not to hold another conference too soon. I mention this fact because people think that the Colombo meeting of Foreign Ministers has been suddenly called to meet a new emergency in South East Asia or in China or elsewhere. In fact it has nothing to do with it. It is the normal conference that was decided to be held over a year ago. Of course it will consider the general situation as it is today. An hon. Member asked me if the question of the recognition of China is on the agenda of that conference and I told him that it was not. We discuss matters—each government deals with such questions independently as it chooses.

Now, may I say a few words in regard to my visit to America and Canada and the United Kingdom? I need not say very much because a great deal of publicity has been given to it in this country. But I would like to say this, that is, the objective which I had in going to America—both the United States and Canada—was achieved to my complete satisfaction. I did not go there for deals and for bargains and for intrigues. I did go there to create a friendly impression, if I may say so a friendly interest in our problems, and generally to create an atmosphere of goodwill between the two countries. I believe we succeeded in doing that, and I believe that the responsible people in the United States thoroughly appreciated, if I may say so, the frank way in which I explained our position in world affairs. They appreciated it. Some of them may have liked it to be somewhat different, perhaps. But they appreciated in the end that that was the only right position that India could have and should have. That is a position in which India pursues her foreign policy without any commitments to other countries, without any binding ties, but in friendly co-operation with all the countries that co-operate with her. Indeed, it was largely in consonance, to give a historical parallel, with the policy which the great founder of their own nation had pursued in the early days of the American Republic. Reading history, past events may seem to us quite not so important as the events that surround us today—wars and revolutions—but what happened in the early days after the American Republic came to be founded was big enough in the context of that world, and soon after came the revolutionary wars in Europe and then the Napoleonic wars. Big revolutions and big changes were taking place all over the world. Washington and the other founders of the Republic definitely and deliberately tried to keep away from alignments in these struggles for world mastery as they were considered then. So, it is not difficult for an American bred up in that tradition to understand that this new Republic of India should not commit itself or align itself with any particular country or policy but should keep on friendly terms with all countries and decide each question on the merits as it arises. Naturally, we have our viewpoint, naturally apart from any particular viewpoint in regard to a particular question, we have a certain approach to questions. That approach is conditioned by the geographical fact of where we are, by our historical background, by the background of our struggle for freedom during the last thirty years or so—it is very much conditioned by that and by various other factors. For us, and I think personally for the world, the most important factor today is not what is happening in Europe, important as it may be, but what is happening in Asia and various parts of Asia. I think it is undoubted that when history comes to be written about this period, these enormous changes that are taking place in Asia will probably be the most important part of that narrative.

[Shri Jawaharlal Nehru]

So, our whole perspective necessarily is different from that of a person possibly in Europe or possibly in America. That does not mean that we see things differently or that we necessarily must differ, but that our approach is somewhat different, the emphasis that we lay might be different and possibly sometimes our judgment of a situation would be different. Nevertheless, I am convinced that it is necessary for us to seek the largest measure of co-operation and not to live in isolation. When we say that we shall try to follow our own policy, it does not mean a policy of isolation, it does not mean, as I made it clear, just a barren neutrality or a passivity. We think in active terms of how we can help in such measure as we can the maintenance of world peace. I am not conceited enough to imagine that we can control the fortunes of the world or prevent something happening that otherwise would happen. But there can be little doubt that we can occasionally at least make a difference. Well, I hope that this country will make that difference whenever it has the chance, and that difference will be in favour of peace.

So, this is the general line that I adopted in other countries in regard to our foreign policy, and I laid special stress, of course, on Asia as she is emerging after several hundred years of colonial domination because that is the most important problem of the age. There has been a great deal of talk about the possibility of war—world war I mean. So far as I can judge, such possibilities as there were have receded. I don't think there is any great chance of any war on a big scale, on a world scale in the near future. Certainly the position in Europe is much quieter from that point of view although very serious problems remain. In Asia, in spite of the big changes that have taken place, I don't see any probability of military conflict, apart from the local conflicts that are going on, on a world scale. Therefore, I think on the whole it may be said that in spite of the various crises and upheavals and difficulties, there is more chance of avoidance of any great world struggle than there was during the past year or two, and India and other countries if they try hard enough can perhaps help still further in avoiding war.

This House must have followed with interest and with a certain degree of satisfaction the progress that was made in the settlement of the conflict in Indonesia. It is a little difficult to say anything now finally as to what will emerge, but I think one may say with a certain measure of certainty that a very big step forward has been taken in the way of that settlement and in Indonesia becoming a completely free country. I should like, on behalf of this House, to congratulate the great leaders of the Indonesian Republic, the President of the Republic, the Prime Minister and others, on the part they have played which has been a part not only of remarkable courage but of remarkable wisdom and restraint. During these two or three years, Indonesia and India have come very close to each other. The public may know something of this by occasional messages, etc., but as a matter of fact the measure of mutual understanding and friendship that has arisen between us has been far greater than even perhaps this House realises. It has been a very great pleasure to me to deal on an official basis and sometimes even on a personal basis with these leaders of the Indonesian Republic, and may I say that some of those leaders, especially the President, know more about the culture and the history of India and even the recent history of our struggle for freedom than perhaps many of our politicians in India itself.

May I also refer to Africa, rather East Africa. Now, if Asia is dynamic today and turbulent and changing, there is little doubt that Africa also is on the eve of great changes. It is a matter of great distress that some parties in Africa should add to the racial problem there instead of trying to solve it, and to make it worse because nothing can be so bad and so dangerous in the future as a big eruption in Africa on the racial basis. So far as we are concerned, it has been our policy and it was the Congress policy long before we came into the Government, that Indians in Africa should develop close contacts and should try to serve

the people of Africa and we had always made it clear that we want no privileges, no interests in Africa which come in the way of the indigenous inhabitants of Africa. At the present moment, apart from the South African problem which is a different one, we have to deal chiefly with the African races in East Africa where there are a considerable number of Indians in business or in some professions. I am happy to say that our relations there have progressively improved and our representative there has done extraordinarily good work in this behalf. One gesture of ours has been to give some scholarships to African students to come to India. It was greatly appreciated there and helped in bringing those Africans nearer to the Indians.

Questions are asked very often about the Foreign Service and about our Ambassadors abroad and criticisms are made. Those criticisms may be justified. Sometimes they are. We have had to build up this Foreign Service from scratch. Foreign Services, more than any other Service, require a tradition and experience. You may send the best of your officers with experience of domestic service and he may not necessarily be good in a Foreign Service at all. In fact, there are very few countries who have a long experience and tradition in their foreign work behind them. It takes a long time to develop it. Normally speaking, a country like India, one which is newly free, might take a number of years to develop foreign contacts. We were not eager to develop them, I can assure this House. But circumstances were such that we had no choice. We cannot function as an independent country without having those contacts. Indians, fortunately, are spread out in all parts of the earth's surface. In some places, they are progressing and advancing. In some places, their presence has created problems with which we have to deal. We can either deal with them through some foreign agency or through our own representatives. If we deal with them through a foreign agency, then we are dependent on that foreign agency; we are not looked upon as an independent nation. So gradually we have been forced to develop these foreign contacts by virtue of the fact that we are independent and by virtue of our growing importance in international affairs. Other countries seek contacts with us; they send representatives to us. We cannot deny them; we welcome them. Once they do that, it is very difficult for this to be a unilateral affair—that they go on sending people here and we do not send our representatives to their country. So, our hands have been really forced—forced by circumstances and by the fundamental fact that India is important in the world. We cannot get away from the fact that India is important and we cannot shrink. Once we become free, simply we step in to a certain position of relative importance in the world.

All these foreign establishments have been expensive. I have no doubt that if we try hard enough we can save money. We are trying as hard as we can. No doubt, in our inexperience we have wasted money. But I should like to tell this House—and this is from personal experience, having gone abroad repeatedly during the past year and having met our representatives in Europe and America (and they came to see me even when I could not go to that particular capital)—that most of our people in Foreign Service abroad are living in exceedingly difficult conditions. It is not their fault or perhaps our fault. It may be the fault of this devaluation and exchange rates which are continually changing—we cannot keep pace with them. Apart from the top people who may be paid adequately, the other people find it very difficult to subsist. While to begin with there were many people who wanted to go abroad, now, those who have gone abroad, nearly all want to come back, because they say they cannot carry on there. Somebody pointed out that they could not buy a pair of shoes or boots and that he had not got them. So, we have to face this difficult problem.

We are reducing our staffs in various offices for reasons of economy, but we cannot possibly allow our people to remain there in a shattered condition in which they cannot afford to live a normal, decent life.

[Shri Jawaharlal Nehru]

Another fact which I should like to bring to the notice of the House is this. It is our desire—and the House has repeatedly reminded us—to Indianise all our services abroad. (*Hear, hear*).

Shri B. Das (Orissa: General): And Indianise their lives too.

The Honourable Shri Jawaharlal Nehru: The hon. Member said something I could not hear properly.

Shri B. Das: I said Indianise their lives too.

The Honourable Shri Jawaharlal Nehru: Oh, I am sorry. I thought he was referring to their wives!

So, now, we have tried to do this but we have had to face certain difficulties—the difficulties being, first of all, that this process means the increasing the cost roughly by three times: certainly doubling the cost of the post and normally three times, taking everything into consideration, because the cost covers not only the question of salary, it means also the families etc., going and the cost of passage is heavy especially when large families have to go. Secondly, efficiency has suffered greatly—not because Indians are inefficient: not that—but efficiency in a foreign country has to be judged from other standards, including the standard of knowing the language of that country. A person may be thoroughly efficient in his job here, and when he is suddenly transported to a foreign country in some relatively minor, junior capacity as a clerk or something like that, he is helpless there. Instead of helping the office, he has to be looked after; his family has to be looked after, because they are complete strangers there; they do not know the language; they do not know the customs, with the result that it takes months and sometimes a year before he gets into it and some other arrangements have to be made for the work to be done. These are the difficulties—heavier cost, lowering of efficiency and sometimes the work having to be done by somebody else all the same. It is an extraordinary situation and inevitably, the only thing we can do is to go slow. I am for the moment talking about the lower ranks; not about the top ranks. I am talking about clerks, Superintendents and such like persons who are sent from here.

Shri Mohan Lal Gautam (U.P.: General): I suppose you will not include *chaprasis* and chauffeurs in this category?

The Honourable Shri Jawaharlal Nehru: Yes, as a matter of fact, we have sent *chaprasis* and chauffeurs too from India and *chaprasis* and chauffeurs get on better than clerks and others. I should therefore like this House to remember in regard to this question of Indianisation the consequences which too rapid Indianisation brings in its train.

Then, a question was put about the house that we have purchased in London for our Embassy there. To be quite frank with this House, there was no immediate urgency for us to purchase this house in London. We need not have purchased it for a year or two, but we purchased it because it was a tremendous bargain and because it was quite essential, if not now, a year later or two years later to have a house in London for our Embassy for the various functions in regard to an Embassy. We want a house like that in Washington and in one or two other places, because otherwise it is an exceedingly costly business. We have found that the annual expenditure in rent is so great that it is far cheaper to buy a house and reduce our monthly and annual expenditure, apart from the fact that an Embassy usually possesses its own house and does not remain in rented houses on the sweet will and pleasure of the owner of that building. We calculated that in New York we were spending a vast sum of money over numerous offices spread out all over the place. We have bought a

building there or taken it on lease—I forget—where all our offices will be located. If you see that big sum which we have paid for that place, it is a very big sum. If you compare the amount that we have spent over the purchase of the house, with the sums that we have paid annually by way of rent for a number of years, you will find that we would be saving money by this transaction. We have followed this practice of buying property, if we could get cheap, at the principal centres. London was obviously one of the places; Paris was another; New York was a third one where this could be done. Today of course we would not have thought of spending any money. It was done last year and it is there.

I was talking about the Foreign Service. May I remind the House of the death of two of our Ambassadors on service abroad? One was our Ambassador in Cairo, Dr. Syed Hussain, who died many months ago. Another recent death was that of Diwan Ram Lal in Rome where he went recently. Of course, the cause of their death was not necessarily connected with their work. But the fact is that in many cases the work of our Embassies has been fairly heavy and the conditions of living have been not so good in some places. In some places they are of course good, but that is not so in the case of some others and that has affected the health of many members of our staff.

May I also mention a very sad case that occurred yesterday,—the death of a very gallant and brave soldier Brigadier Kanhaiyalal Atal, who died suddenly yesterday. Perhaps one of the most spectacular actions of our campaign in Kashmir was the action just about a year ago when our forces forced the Zojila, a pass at eleven thousand feet. It was an extraordinary feat which may go down in military manuals. Brigadier Atal was in command of our forces and his name will be always remembered in that connection. It was a great sorrow to me and I am sure the House will agree with me that the death of this very gallant and young soldier with so much promise just when he was on leave for a day or two was a very sad event.

Shri R. K. Sidhva (C.P. and Berar: General): May I know whether the House will have an opportunity to discuss the devaluation, food problem and other matters arising out of the hon. the Prime Minister's statement?

Mr. Speaker: Not for the present.

Pandit Lakshmi Kanta Maitra: May I have your permission to bring a very important matter connected with East Bengal to the notice of the hon. Prime Minister. It arises out of this statement.

Mr. Speaker: As I have stated to hon. Members, the best course is that, if they want to bring any question to the attention of the House they should first inform me, so that I may consider the matter and then decide.

Here, I do not know what matter the hon. Member is going to raise. I have no idea as to whether it really deserves being permitted to be raised or not and by the time he has said, he has said: that is all. I do not get any opportunity on the question of grant of permission, to raise the point. That is my difficulty. The hon. Member can meet me in my room and if necessary he can raise the matter tomorrow.

Shri H. V. Kamath: May we put questions arising out of the hon. the Prime Minister's statement?

Mr. Speaker: As the hon. Member knows that is not the practice here.

H. E. THE GOVERNOR GENERAL'S ASSENT TO BILLS.

Secretary of the Assembly: Sir, I lay on the Table a statement showing the Bills which were passed by the Dominion Legislature (Constituent Assembly of India—Legislative) during the Budget Session, 1949, and which have been assented to by His Excellency the Governor General.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) [28TH Nov. 1949]
STATEMENT.

- (1) The Indian Tariff (Amendment) Act, 1949.
- (2) The Mangrol and Manavadar (Administration of Property) Act, 1949.
- (3) The Indian Emigration (Amendment) Act, 1949.
- (4) The United Provinces Provincial Armed Constabulary (Extension of Laws) Act, 1949.
- (5) The Protective Duties (Amendment) Act, 1949.
- (6) The Public Debt (Central Government) Amendment Act, 1949.
- (7) The Scheduled Securities (Hyderabad) Act, 1949.
- (8) The Seaward Artillery Practice Act, 1949.
- (9) The Code of Criminal Procedure (Amendment) Act, 1949.
- (10) The Banking Companies Act, 1949.
- (11) The Railways (Transport of Goods) Amendment Act, 1949.
- (12) The Protective Duties (Miscellaneous Provisions) Act, 1949.
- (13) The Central Tea Board Act, 1949.
- (14) The Indian Finance Act, 1949.
- (15) The Code of Criminal Procedure (Second Amendment) Act, 1949.
- (16) The Governor-General's Salary (Exemption from Taxation) Act, 1949.
- (17) The Criminal Law (Removal of Racial Discrimination) Act, 1949.
- (18) The Merchant Shipping Laws (Extension to Acceding States and Amendment) Act, 1949.
- (19) The Essential Supplies (Temporary Powers) Amendment Act, 1949.
- (20) The West Godavari District (Assimilation of Laws on Federal Subjects) Act, 1949.
- (21) The Hindu Marriages Validity Act, 1949.
- (22) The Payment of Taxes (Transfer of Property) Act, 1949.
- (23) The Influx from Pakistan (Control) Act, 1949.
- (24) The Delhi Hotels (Control of Accommodation) Act, 1949.
- (25) The Displaced Persons (Legal Proceedings) Act, 1949.
- (26) The Indian Tea Control (Amendment) Act, 1949.
- (27) The Bombay Port Trust (Amendment) Act, 1949.
- (28) The Coal Mines Labour Welfare Fund (Amendment) Act, 1949.
- (29) The Dock Workers (Regulation of Employment) Amendment Act, 1949.
- (30) The Public Companies (Limitation of Dividends) Act, 1949.
- (31) The Indian Wireless Telegraphy (Amendment) Act, 1949.
- (32) The Code of Civil Procedure (Amendment) Act, 1949.
- (33) The Rubber (Production and Marketing) Amendment Act, 1949.
- (34) The Coffee Market Expansion (Amendment) Act, 1949.
- (35) The Indian Succession (Amendment) Act, 1949.
- (36) The Indian Passport (Amendment) Act, 1949.
- (37) The Registration of Foreigners (Amendment) Act, 1949.
- (38) The Chartered Accountants Act, 1949.
- (39) The Cinematograph (Amendment) Act, 1949.
- (40) The Repealing and Amending Act, 1949.
- (41) The Child Marriage Restraint (Amendment) Act, 1949.
- (42) The Indian Penal Code and the Code of Criminal Procedure (Amendment) Act, 1949.

PAPERS LAID ON THE TABLE

REPORT OF INDIAN GOVERNMENT DELEGATION TO 31ST SESSION OF INTERNATIONAL LABOUR CONFERENCE, SAN FRANCISCO, 1948

The Honourable Shri Jagjivan Ram (Minister of Labour): Sir, I lay on the Table a copy of the Report of the Indian Government Delegation to the thirty-first session of the International Labour Conference held in San Francisco in 1948. [Copy placed in the Library. See No. IV R 01(189)/1].

AMENDMENTS TO INSURANCE RULES, 1939

The Honourable Shri K. C. Neogy (Minister of Commerce): Sir, I lay on the Table a copy each of certain further amendments to the Insurance Rules, 1939, published in Notification No. Ins. Misc. E-102(1)/49, dated the 7th May 1949, under sub-section (3) of Section 114 of the Insurance Act, 1938.

NOTIFICATION

No. Ins. Misc. E-102(1)/49.—In exercise of the powers conferred by sub-sections (1) and (8) of section 114 of the Insurance Act, 1938 (IV of 1938), the Central Government is pleased to direct that the following further amendments shall be made in the Insurance Rules, 1939, the same having been previously published as required by sub-section (1) of the said section, namely:—

A. In the said Rules—

1. To sub-rule (1) of rule 13 the following proviso shall be added, namely:—

"Provided that the Central Government may, in respect of any insurer after taking into account the maximum sum assured permissible according to its constitution or rules and regulations and other conditions, modify the above qualifications by fixing (i) for the sum insured or annuity, an amount lower than the corresponding amount mentioned in clause (a) or (ii) for the period, a period shorter than the one mentioned in clause (b) or (iii) both."

2. In sub-rule (1) of rule 14 after the words "is situated" the following shall be inserted, namely:—

"or, with the prior consent and approval in writing of the Superintendent of Insurance, at any other place".

- B. In the Notes appended to Form VI-D of the Forms set forth in the Schedule to the said Rules, after the words "maximum and minimum of the sum insured should be stated", the following shall be added, namely:—

"Where a policy has been made paid-up, necessary correction shall be made to the sum assured by showing the paid-up amount and the date of making it paid-up shall also be indicated".

S. RANGANATHAN, Joint Secy.

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

ORDINANCES ISSUED BY H. E. THE GOVERNOR GENERAL AFTER BUDGET SESSION, 1949

The Honourable Shri Satyanarayan Sinha (Minister of State for Parliamentary Affairs): Sir, I lay on the Table a statement showing the Ordinances issued by the Governor General after the Budget Session 1949 of the Constituent Assembly of India (Legislative).

STATEMENT

S. No.	Subject	Ministry	Whether it is the intention of the Government to replace it by an Act and if so, when	Remarks
1	The Abducted Persons (Recovery & Restoration) Ordinance, 1949 (XVIII of 1949).	External Affairs.	Yes. In the current session of the Legislature.	
2	The Durgah Khawaja Sahib (Emergency Provisions) Ordinance, 1949 (XXIV of 1949).	Home Affairs	No.	
3	The Transfer of Detained Persons Ordinance, 1949 (XVI of 1949).	Do.	Yes. In the current session of the Legislature.	
4	The Nawab Salar Jung Bahadur (Administration of Assets) Ordinance, 1949 (XXIX of 1949).	States	No.	
5	The Taxation Laws Amendment Ordinance, 1949 (IX of 1949).	Finance	Yes. In the current session of the Legislature.	
6	The Foreign Exchange Regulation (Amendment) Ordinance, 1949 (X of 1949).	Do.	Do.	
7	The Industrial Tribunals Payment of Bonus (National Savings Certificates) Ordinance, 1949 (XI of 1949).	Do.	Under consideration in consultation with Provincial Governments.	
8	The Industrial Tribunals Payment of Bonus (National Savings Certificates) Amendment Ordinance, 1949 (XIII of 1949).	Do.	Do.	
9	The Professions Tax Limitation (Amendment and Validation) Ordinance 1949 (XVII of 1949).	Do.	Under consideration in consultation with the Ministry of Law.	
10	The Reserve Bank of India (Amendment) Ordinance, 1949 (XIX of 1949).	Do.	Yes. In the current session of the Legislature.	
11	The Taxation Laws (Extension to merged States) Ordinance, 1949 (XXI of 1949).	Do.	Do.	
12	The Banking Companies (Amendment) Ordinance, 1949 (XXIII of 1949).	Do.	Do.	
13	The Export Duties (Emergency Provisions) Ordinance, 1949 (XXV of 1949).	Do.	No.	
14	The Export Duties (Emergency Provisions) Amendment Ordinance, 1949 (XXVI of 1949).	Do.	No. The Ordinance relates to the inclusion of cotton and pepper to the schedule of the previous Ordinance.	
15	The Requisitioned Land (Apportionment of Compensation) Ordinance, 1949 (XXVII of 1949).	Defence	Yes. In the current session of the Legislature.	
16	The Industrial Disputes (Banking & Insurance Companies) Ordinance, 1949 (VI of 1949).	Labour	Do.	

S.No.	Subject	Ministry	Whether it is the intention of the Government to replace it by an act and if so, when	Remarks
17	The Industrial Disputes (Banking & Insurance Companies) Second Ordinance, 1949 (XXVIII of 1949).	Labour	Yes. In the current session of the Legislature.	This was a re-issue of the previous Ordinance.
18	The Delhi Water Supply (Emergency Provisions) Ordinance, 1949 (VII of 1949).	Health	No.	
19	The Essential Supplies Temporary Powers) Amendment Ordinance, 1949 (XIV of 1949).	Industry & Supply.	Yes. In the current session of the Legislature.	
20	The Drugs (Control) Ordinance, 1949 (XXVI of 1949).	Do.	Under consideration in consultation with Ministry of Health.	
21	The Chartered Accountants (Amendment) Ordinance, 1949 (XV of 1949).	Commerce	No.	
22	The Ajmer-Merwara Agrarian Relief Ordinance 1949 (VIII of 1949).	Agriculture	Yes. In the current session of the Legislature.	
23	The Ajmer-Merwara Agrarian Relief (Second) Ordinance, 1949 (XXX of 1949).	Do.	Do.	This was a re-issue of the previous Ordinance.
24	The Administration of Evacuee Property (Chief Commissioners' Provinces) Ordinance, 1949 (XII of 1949).	Rehabilitation.	Do.	The Provisions contained in these two Ordinances have been embodied in the Ordinance shown against S. No. 26.
25	The Administration of Evacuee Property (Chief Commissioners' Provinces) Amendment Ordinance 1949 (XX of 1949).	Do.	Do.	
	The Administration of Evacuee Property Ordinance, 1949 (XXVII of 1949).	Do.	Do.	Embodies all the Provisions contained in S. No. 24 and 25.

Shri R. K. Sidhva (C.P. and Berar: General): Sir, may we have a copy of these ordinances?

Mr. Deputy-Speaker: They are in the Library.

Shri R. K. Sidhva: They are not available in the Library.

Mr. Deputy Speaker: I am informed that they are available in the Library.

Prof. N. G. Rang (Madras: General): May we suggest that they may be circulated to Members?

Mr. Deputy-Speaker: The ordinances are published in the *Gazette of India*. Hon. Members are supplied with copies of the Gazette.

Honourable Members: No, Sir; no copy of the Gazette is supplied to us.

Mr. Deputy-Speaker: I am personally aware of a circular which said that whichever hon. Member wished to have a copy would be supplied with a copy of the Gazette.

Shri R. K. Sidhva: Sir, this matter will come up for discussion and it would be of immense help to us if we had copies of these ordinances.

Mr. Deputy-Speaker: There are a number of copies of these ordinances available in the Library of the House.

ACTION TAKEN BY GOVERNMENT ON ASSURANCES, PROMISES AND UNDERTAKING
GIVEN DURING BUDGET SESSION 1949

The Honourable Shri Satyanarayan Sinha (Minister of State for Parliamentary Affairs): Sir, I lay on the Table a statement showing the action taken by the Government on various assurances, promises and undertakings given during the Budget Session, 1949, of the Constituent Assembly of India (Legislative). (See *Appendix II*).

Prof. N. G. Ranga (Madras: General): May I suggest that this statement may also be circulated among the Members of the House?

Mr. Deputy Speaker: The statement is a long one and will have to be printed. It will be circulated to hon. Members as soon as possible.

ELECTION TO STANDING COMMITTEE FOR MINISTRY OF
REHABILITATION

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

"That this Assembly do proceed to elect in such manner as the Honourable the Speaker may direct, one member to serve, until the end of the current financial year, 1949-50, on the Standing Committee to advise on subjects with which the Ministry of Rehabilitation is concerned, *vice* Shri Z. H. Lari, resigned."

Mr. Deputy-Speaker: The question is:

"That this Assembly do proceed to elect in such manner as the Honourable the Speaker may direct, one member to serve, until the end of the current financial year, 1949-50, on the Standing Committee to advise on subjects with which the Ministry of Rehabilitation is concerned, *vice* Shri Z. H. Lari, resigned."

The motion was adopted.

Mr. Deputy-Speaker: I have to inform Hon. Members that for the purpose of election by means of the single transferable vote of a Member to the Standing Committee for the Ministry of Rehabilitation the programme of dates will be as follows:

Nomination to be filed in the Notice Office up to 12 Noon on Wednesday, the 30th November.

Election, if necessary, will be held on Friday, the 2nd December, in the Assistant Secretary's room (No. 21) in the Council House between the hours of 10-30 A.M. and 1 P.M.

RESERVE BANK OF INDIA (AMENDMENT) BILL

The Honourable Dr. John Matthai (Minister of Finance): I introduce the Bill further to amend the Reserve Bank of India Act, 1934.

Mr. Deputy-Speaker: Unlike the previous practice these Bills have been published in the Gazette and circulated to Members. Therefore, no particular motions will be moved at this stage.

ESSENTIAL SUPPLIES (TEMPORARY POWERS) SECOND AMEND-
MENT BILL

The Honourable Dr. Syama Prasad Mookerjee (Minister of Industry and Supply): I introduce the Bill further to amend the Essential Supplies (Temporary Powers) Act, 1946.

RUBBER (PRODUCTION AND MARKETING) BILL

The Honourable Dr. Syama Prasad Mookerjee (Minister of Industry and Supply): I introduce the Bill further to amend the Rubber (Production and Marketing) Act, 1947.

REQUISITIONED LAND (APPORTIONMENT OF COMPENSATION) BILL

The Honourable Sardar Baldev Singh (Minister of Defence): I introduce the Bill to provide for the apportionment of compensation payable in respect of requisitioned land.

TRANSFER OF DETAINED PERSONS BILL

The Honourable Sardar Vallabhbhai Patel (Minister of Home Affairs and the States): I introduce the Bill to provide for the removal from one unit to another unit of persons subjected to preventive detention for reasons connected with the maintenance of public order.

INDIAN ARMS (AMENDMENT) BILL

The Honourable Sardar Vallabhbhai Patel (Minister of Home Affairs and the States): I introduce the Bill further to amend the Indian Arms Act, 1878.

INSURANCE (AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister of Commerce): I introduce the Bill further to amend the Insurance Act, 1938.

INDIAN MERCHANT SHIPPING (AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister of Commerce): I introduce the Bill further to amend the Indian Merchant Shipping Act, 1923.

INDIAN TARIFF (SECOND AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister of Commerce): I beg to introduce the Bill further to amend the Indian Tariff Act, 1934.

INDIAN RAILWAYS (AMENDMENT) BILL

PRESENTATION OF REPORT OF SELECT COMMITTEE

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): Sir, I present the report of the Select Committee on the Bill further to amend the Indian Railways Act, 1890.

INDIAN JUDICIAL PROCEDURE BILL

PRESENTATION OF REPORT OF SELECT COMMITTEE

Pandit Thakur Das Bhargava (East Punjab: General): Sir, I present the Report of the Select Committee on the Bill to clarify and modify the law in practice hitherto followed in Criminal applications for special leave to appeal to His Majesty in Council for Criminal cases decided by the Indian Courts.

INDUSTRIES (DEVELOPMENT AND CONTROL) BILL

EXTENSION OF TIME FOR PRESENTATION OF REPORT OF SELECT COMMITTEE

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

"That the time appointed for the presentation of the Report of the Select Committee on the Bill to provide for the development, regulation and control of certain industries, be further extended upto the last day of the first week of the next session."

Mr. Deputy-Speaker: The question is:

"That the time appointed for the presentation of the Report of the Select Committee on the Bill to provide for the development, regulation and control of certain industries, be further extended upto the last day of the first week of the next session."

The motion was adopted.

TAXATION LAWS AMENDMENT BILL

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

"That the Bill further to amend the Indian Income-tax Act, 1922, the Indian Finance Act, 1942, the Excess Profits Tax Ordinance, 1943, the Indian Finance Act, 1946, the Business Profits Tax Act, 1947 and the Taxation on Income (Investigation Commission) Act, 1947, be withdrawn."

Sir, I would like, with your permission, to make a brief statement regarding the circumstances which have necessitated the proposal to withdraw this measure. This particular Bill was introduced in the House sometime last April during the Budget Session and there was no time for the House to deal with it. The matter had to stand over.

The Bill really consists of two groups of measures: one of them, more or less of a routine character, deals with procedural matters and the other consists of matters of principle and is of a somewhat contentious character. Since the time before the House during this session is also limited, I think it will help expeditious disposal of business if I take the routine matters out of the Bill and put them in a separate Bill which I propose, if the House agrees, to introduce in the course of this session so that it may be got out of the way.

As regards matters of principle of a contentious character included in the Bill, my idea is to introduce during the Budget Session a comprehensive Bill on all these taxation matters and also certain other proposals of Government based upon the recommendations of the Taxation Investigation Commission so that the House may have some time to give to these matters. Thus, what I am doing is not to drop any matter which is already before the House, but to put through a procedure which will help the House to more conveniently and expeditiously dispose of this matter.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Indian Income-tax Act, 1922, the Indian Finance Act, 1942, the Excess Profits Tax Ordinance, 1943, the Indian Finance Act, 1946, the Business Profits Tax Act, 1947 and the Taxation on Income (Investigation Commission) Act, 1947, be withdrawn."

The motion was adopted.

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

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

BANKING COMPANIES (LEGAL PRACTITIONERS' CLIENTS' ACCOUNTS) BILL

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

"That the Bill to restrict the liability of banking companies in connection with certain transactions by legal practitioners, be taken into consideration."

Sir, the necessity for this Bill has arisen from certain rules framed by the Bombay High Court for the protection of clients' interests in the matter of moneys, which they have entrusted to Attorneys for professional business. What these rules do in the first place is to provide that moneys of this kind should be deposited by Attorneys in banking accounts which are held in the name of Attorneys but to be designated clients' accounts, and the rules provide for them that moneys cannot be withdrawn from these accounts except for purposes of meeting expenditure properly required in connection with professional business by or on behalf of clients. Now, competent legal opinion has held the view that the effect of these rules is to use the language of lawyers, to fix a notice of trust on the banking companies concerned. In other words, the effect of these rules, as far as the banking companies are concerned, is that when a cheque is drawn on a client's account, then there is an obligation on the bank to make enquiries as to the purpose for which the money is being withdrawn to see whether the purposes are in accordance with the rules framed by the High Court. Now, it has been claimed on behalf of the banking companies—and in my opinion quite rightly—that these rules place an undue degree of responsibility upon banks because for enquiries of this kind banks have neither the organisation nor the time required and it has an effect upon not merely the particular banks concerned but generally on the credit system of the country, it has the effect of impairing the free convertibility of cheques which is, as the House will realise, an essential feature of the banking credit system. The same problem has arisen in the United Kingdom. The same kind of rules as the Bombay High Court has framed have been in force in the United Kingdom and the same legal problem with reference to which this Bill is placed before the House, has arisen in the United Kingdom and in order to meet which there is a legal enactment there which is exactly on the lines of the provisions contained in this Bill. Therefore I suggest to the House that in the interests of the banks and the clients in this matter it is necessary that the House should give its approval to this Bill. There has been a very considerable demand for a measure of this kind and it is really in response to the recommendations which have been made to the Government on this matter that we have thought it necessary to put this Bill before the House. There are various amendments of which notice has been given, one I think by my Honourable friend, Dr. P. S. Deshmukh and also Prof. Shibban Lal Saksena, asking that this matter be referred to a Select Committee. Now I would point out to the House that this Bill was introduced in the Budget Session early in April. It has been there for several months before the House and before the country and I do not remember having received a single objection from any individual or public body, nor so much as a single representation during all this period, since the Bill was placed before the House. I would therefore respectfully submit to the House that in view of the fact that this Bill has provoked no controversy whatsoever and the matter is a matter merely more or less of a routine character, there is really no need for holding it up by reference to a Select Committee or by circulating it for eliciting public opinion.

[Dr. John Matthai]

There is one point to which I would like to refer if I may anticipate some of the amendments of which notice has been given. There are some amendments both by my Honourable friend, Dr. Deshmukh, and also by Sardar Hukam Singh that there should be a specific reference to Unions of States. I have discussed this matter with the Law Ministry and I am advised that the words "acceding States" would also cover Unions of States and therefore it is unnecessary to insert the words "Unions of States" in it. I submit, Sir, that the House should give its ready approval to the Bill.

Mr. Speaker: Motion moved:

"That the Bill to restrict the liability of banking companies in connection with certain transactions by legal practitioners, be taken into consideration."

Dr. P. S. Deshmukh (C.P. and Berar: General): Mr. Speaker, Sir, before I move my amendment, I wish to say that I do not wish to move my amendment for circulation. I shall however move the other amendment which is for reference to a Select Committee. Sir, I move:

"That the Bill be referred to a Select Committee consisting of Prof. Shibban Lal Saksena, Shri Ananthasayanam Ayyangar, Dr. Bakshi Tek Chand, Shri L. T. Krishnamachari, Mr. Naziruddin Ahmad, Mr. Frank Anthony, Mr. Jaspal Roy Kapoor, Mr. Jaipal Singh, Mr. H. V. Pataskar, Mr. Rohini Kumar Chaudhuri, Mr. Mahavir Tyagi, The Hon. Dr. Ambedkar, The Hon. Dr. John Matthai, Mr. Krishnamoorthy Rao, and the Speaker."

Mr. Speaker: Prof. Shibban Lal Saksena's motion also is for reference to Select Committee. There is therefore a question of names only.

Prof. Shibban Lal Saksena (U.P. : General): I will accept the names suggested by Dr. Deshmukh.

Sir, the Honourable Minister for Finance has justified his motion for consideration on the ground that there has been no complaint, no protest. My first point with regard to this Bill is that in any case we have allowed as long a period as 16 years to elapse before we followed the United Kingdom in amending the rules framed by the Bombay High Court. There should therefore be no hurry in passing this Bill today only. Then he suggested that there has been not even a single complaint. I would like to submit to the House that people in this country are not very careful about the legislation which is rapidly going through this House. If I am not exaggerating, I make bold to say that many of the Hon. Members of this House would not always be able to say what a particular Bill amounts to and when it has been passed and in what particular form. That is not the mistake of the Hon. Members of the House; it is the rapidity of the legislation that we are undertaking.

Shri B. L. Sondhi (East Punjab: General): Oh yes; exactly.

Dr. P. S. Deshmukh: So far as not having a complaint, I will point out a very fine instance of how many things pass muster and how people are not careful to take the opportunity of complaining or lodging a protest. It is an instance that occurred in the C.P. and Berar. It is a very apt illustration of what happens with regard to the way in which the public in general try to maintain and protect their rights or fight for them. There are not many people who take the trouble of bringing forward the grievances of the people in every particular respect. In the Province of C.P. and Berar there was a rule issued by the Education Department that after a boy has completed six years of age he will not be permitted to keep out of a school from a compulsory area. It is nearly nine years ago that this rule was issued; in fact the rule was there wherever compulsory education was in vogue and this rule of the Education Department was interpreted to mean that no boy shall be admitted to any school unless he has

completed six years of age and for ten years this interpretation passed muster, and there was not a single individual to protest against this, although their sons were refused admission in the primary schools because they had not completed six years of age. This continued for ten years. On the one hand we are trying to educate people as fast as we can and we want to bring people who are reluctant to go to school and here was a rule which was absolutely misinterpreted and this sort of misinterpretation existed for such a long time. So it is not surprising that people's attention has not been drawn to this and if this amendment Sir, is really necessary, then there would be no harm, I think if some more time is taken in passing it. It must also be remembered that the Bill is sought to be made applicable only to the area which is under the jurisdiction of the Bombay High Court for the present. I am sure there is no pressing necessity so that this may be passed in the course of a few minutes and there would be no danger nor any serious difficulty if the passing of the Bill were postponed till the first week of the next session. Secondly, this is a question between the Banks and the clients and the solicitors and pleaders. As we know the only people who really take any notice of legislation are the lawyers' class and here are the lawyers' class dealing with the clients' money by way of cheques. So it is impossible to expect that any lawyer will come forward and increase the difficulties of withdrawing the money by cheque as it exists at present. I would like to point out that the way in which the legal profession in India behaves or even the solicitors behave is far different from how they behave in the U.K. and in making it so easily available by way of issue of a cheque by the solicitor or the lawyer, I think a little attention ought to be paid to the circumstances that exist in India and from that point of view also I would urge that a reference to the Select Committee will do no harm and in the meantime, I would also request that opinion should be called for. I can point out cases where copies of questionnaires and bills are sent to people and we get no reply and no opinion is given. Thus to expect that without our asking for any opinion somebody will come forward with it is to expect the impossible. This is also bound to be a case where the number of persons who are directly interested is limited. There are not a large number of people concerned with the matter and the ordinary public is not certainly interested in seeing that there ought to be some objection recorded. The individuals affected are limited and in view of this fact also, I think it is all the more necessary that public opinion in the meantime as the Select Committee meets, should also be invited and I suppose that the Hon. Minister will probably find his way to accept my motion. It is quite harmless; it is not likely to put the Bombay High Court or any of the banks under any very great difficulty. They have worked under these difficulties for the last 16 years and in spite of the fact that the Bill was before the country for eight months and so long as no particular attention was drawn to it, it is natural to expect that the attention of the people who are associated with it has not been pointedly drawn. I, therefore, submit that this should now be done and the Bill referred to the Select Committee.

Prof. Shibban Lal Saksena: Sir, I support the motion which my hon. friend, Dr. Deshmukh has moved, although I wish that the time for submitting the report must be quicker. I do not think it is absolutely important that it should be taken to the next session. I do feel that the Bill should be laid before the House and particularly the Statement of Objects and Reasons strikes as something which requires some consideration. It says that henceforth the banks shall have the advantage of verifying whether the money of the clients is properly used or not, whether the cheques issued upon their account are for proper purposes or not and it will be left to the lawyers to do what they liked with that money. I personally feel that there is something which strikes as rather surprising. I can understand the difficulty of the banks and that they should be relieved in some way of their difficulties, but the Bill does not take sufficient care to protect the clients' money and it was therefore that I suggested that

[Prof. Shibban Lal Saksena]

the matter should be considered by some Members of this House so that they might probably scrutinise the clauses of the Bill and provide proper safeguards for the money of the clients. It was with that intention I submitted my amendment. I hope, Sir, that the motion of Dr. Deshmukh with my amendment that it should be in this session and the report should come before this House, should be accepted.

Shri R. K. Sidhva (C.P. and Berar: General): Mr. Speaker, Sir, I welcome the provision of this Bill. I am rather surprised at the motion moved by my hon. friend, Dr. Deshmukh that this Bill should be sent to the Select Committee. He has also given notice to send the Bill for 'public opinion'. He has of course not moved that. But his intention is very clear. I have tried to listen to his speech with patience and I do not find a single ground beyond stating that this House has been rapidly enacting acts and very few people take notice of it. He quoted an instance of a rule made by the C. P. Government. It is not certainly germane but, however, he was quite justified in mentioning that interesting instance. Neither my hon. friend Prof. Shibban Lal Saksena has stated anything. I welcome the suggestion that he made that in the interest of the clients something more should be inserted in this Bill to protect their interests. I agree with him, but what are those interests that he wants to be inserted. I would be prepared to go with him if he could give any illustration. I want to know what he knows about it. He must be able to make out a case as to why he wants the Bill to be sent to the Select Committee. One instance at least should be given to the House and the House should be prepared to consider that point whether that is right or wrong. The point is that neither of them has made out a case. On the contrary I do feel that this Bill has come too late. I know of a case where the lawyer had misappropriated the money of the client and it is high time that a Bill of this nature is brought in. I do not know why the previous government did not think about it. I am glad the Bombay High Court took note of it and put enthusiasm into our Finance Minister. It is also good that the Bill says that it shall be applicable to all parts of the country. I can give many instances from my experience and I do not want to do that. Money given for payment of a decree.....

An Honourable Member: How does this Bill prevent that?

Dr. P. S. Deshmukh: The hon. Member has not understood the Bill.

Shri R. K. Sidhva: You have not made out a case and probably you have not understood the Bill yourself, and hence you are saying that I have not understood it. You have no legs to stand on.....

Mr. Speaker: The hon. Member should address the Chair and not the honourable member.

Shri R. K. Sidhva: The Bill definitely wants to impose a responsibility upon the bank. To avoid any trouble there should be a separate account to be opened in the bank. I fail to understand what is wrong with it. This Bill should have been disposed of in ten minutes. The objectives are clear and the provisions are clear. They are in the interest of the bank and the client. I support this Bill and I feel that it should be passed in ten minutes.

Shri Chimanlal Chakubhai Shah (Saurashtra): Sir, I support the Bill. I am sorry I am unable to support the motion for reference of the Bill to Select Committee. Probably as the only solicitor from Bombay I may be permitted to make a few observations on this because I have some personal experience of this matter which the Bill deals with.

The Bombay High Court sometime back made rules which make it compulsory for solicitors to keep the client's moneys entirely separate from their own. Till then some of the solicitors used to keep only one account into

which their own money as well as the client's money was deposited. Instances were brought to the notice of the court in which client's moneys had been utilised by solicitors contrary to the specific purpose for which those moneys had been entrusted to them. In consultation with the Bombay Incorporated Law Society the High Court made rules which make it compulsory for solicitors to maintain separate accounts in which all the moneys received from clients for specific purposes are to be kept and the solicitors are debarred from making any use of that money except for the purpose for which the money was entrusted to them. The High Court has assumed powers under these rules to examine the accounts of the solicitors and the solicitors have to satisfy the High Court whenever called upon to do so that the money entrusted to them has been used for the specific purpose for which it was intended. After the rules came into force, the solicitors found it somewhat difficult to operate these accounts, because it is well known that the banks usually take no notice of any trust and therefore from my personal experience of banks with whom my firm has account, I know that operating on the account of the client's money requires a special certificate every time a cheque is drawn, saying that this was money specially deposited and is being drawn upon for the specific purpose for which it was entrusted. Therefore it was extremely difficult to operate upon the accounts in this manner.

As regards the protection of the bank this Bill is absolutely necessary. It does not directly deal with the protection of the client's money, which I believe was the concern of my friend Mr. Shibban Lal Saksena. For that you need another Bill. This Bill merely concerns the bank and the solicitors and as regards the protection of the client's money, another Bill will be necessary and I submit that the House may consider taking separate action in that direction. So far as this Bill is concerned it may be passed because without the protection given by this Bill, it is difficult to open and operate upon accounts dealing with clients' moneys.

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, my friend Prof. Saksena has misunderstood the scope of the Bill. I welcome his enthusiasm in supporting the clients. Even in Madras a rule has been framed by the High Court that a client's money is to be kept separately from the moneys of the vakil or advocate. Therefore every lawyer in the district headquarters has had to open separate accounts in the bank. This, however, imposed a heavy responsibility on the bank, namely to find out, though there may be a separate account as opposed to the personal account of the lawyer, whether the money drawn is appropriated for the client's benefit or not. The lawyer may operate on the account and appropriate the money for his own use. That imposed a heavy responsibility on the bank which is not its responsibility in the usual course. What is the agency by which in a particular case the bank could find out whether the money has been drawn for the benefit of the client or has been appropriated for the benefit of the lawyer? It is a personal account of the lawyer so far as the bank is concerned. This was not contemplated originally and since the difficulty has arisen it is necessary that the Bank should be relieved of the responsibility, which ordinarily it will not undertake.

So far as the client's money is concerned this Bill does not mean that the High Court could withdraw the rule or obligation upon a lawyer to open a separate account in a bank. So far as the client and the lawyer are concerned the lawyer's obligation to keep a separate account of the client's money and not confuse it with his own personal account is still there. The High Court need not withdraw that rule. There is therefore no purpose in sending this Bill to the Select Committee. The clause is a simple one and there is not even a grammatical mistake. The object of the Bill is clear and we cannot improve upon it nor in the language. I would request my hon. friend to withdraw his motion for reference to the Select Committee.

Pandit Thakur Das Bhargava (East Punjab: General): Sir, the Bill is very simple. I do not doubt the utility of the Bill so far as Bombay is concerned. As a matter of fact the High Courts make these rules in the interest of the poor clients. They want that the lawyer should not mix his money with the money of his clients, so that when the occasion arises it could be found out if the money is rightly appropriated. This is the object of the Bombay High Court. I understand from Mr. Ayyangar that the Madras High Court has also made a rule in this respect. What the Bombay and Madras High Courts mean to do to protect the interests of the clients, this Bill to that extent takes away the protection from the clients. I do not know if there is any such rule in all High Courts but in the Punjab High Court there is no such rule. There is no such practice by which the client deposits money with the lawyers who in their turn deposit it somewhere else. The moneys are directly deposited by the party in the treasury or the courts. As a matter of fact there are no solicitors in the rest of the country except in two or three places.

3 P. M. My submission is that this Bill should not be so broad-based. If difficulties are faced and if there is need for it in Bombay City let it apply to Bombay. It is not fair to assume a contingency and then make the law. All canons of legislation require that you make new laws to meet the actual situation which may be found to exist in a particular province. In the rest of India there is no such rule by any other High Court and the practice of opening such accounts is not there.

Shri C. Subramaniam (Madras: General): But banking is a Central subject.

Pandit Thakur Das Bhargava: I am not saying that the Central Government cannot do this. I am saying that this may be limited to Bombay or Madras where there is necessity for it.

Shri M. Ananthasayanam Ayyangar: May I ask one question of my honourable friend? If perchance the other High Courts also follow suit and make rules that the client's money ought to be kept in a bank separately, should we bring in another piece of legislation?

Pandit Thakur Das Bhargava: If that situation arises, certainly it will be open to the House to make a law. But first of all creating a situation and making a law is not fair. After all, the Bill says that "where, under any law or rule having the force of law, a legal practitioner keeping an account in a banking company for client's moneys, may only operate on such account for specified purposes...". Suppose a certain sum of money is deposited in a client's account by a solicitor. Then the lawyer who operates on that account has to mention in the cheque the purpose of the withdrawal. The bank has only got to look to the apparent tenor of the cheque. That is enough. Suppose there is an agent and a principal and a bank accepts an account from an agent on the specific condition that the money is to be used only for the principal, then the agent has to specify that the cheque is going to be drawn for a specified purpose. And the bank has no special responsibility as long as the purpose is given. As I have already said, the apparent tenor of the purpose is enough and the bank need not go into the details as to whether it is overdrawn on that account or not. As between a solicitor and a bank I can quite see that there is some responsibility on the part of the bank, but it is not a very great responsibility or a responsibility which the bank cannot discharge. They have been discharging it for a very long period. As such I cannot see how the bank will be protected a very great deal or relieved of any special responsibility. The responsibility is only nominal. The bank has to see the purpose and the apparent tenor of the authority. But if the House thinks or the hon. mover thinks that a certain purpose will be served, I have no objection if the Bill is limited to the City of Bombay to start with and power is taken to extend it to the rest of the Province of Bombay later.

Some Honourable Members: That is so.

Pandit Thakur Das Bhargava: It goes much further. The Bill applies to the whole of India and shall so apply from such date as is indicated in the notification. I want that it may be limited to the Province of Bombay. That is all I have to say.

Shri H. V. Pataskar (Bombay: General): The Bill is simple enough, but to my mind there is some misapprehension because the High Court has framed certain rules laying down that with respect to the moneys of the clients, the solicitor—which is a rather peculiar institution prevailing only in Bombay City—shall keep in a separate account and he can operate on it only for the purposes specified in the rules. Where, for instance, the solicitor under these rules keeps an account in the bank marked as "client's account", naturally that account can be operated upon under those rules only for certain specified purposes to which it is limited. Therefore, when there is no complaint, I do not understand how there will be any difficulty in the way. But if we pass this legislation what I am afraid of is that the client's interests which are proposed to be safeguarded are likely to suffer because the rules provide that the account shall be operated in a particular way and if you pass a Bill here like this you will thereby remove all the responsibility of the bank and the client will be at the sweet mercy of the solicitor. I do not agree with the view of some of my friends who supported it under the plea that the solicitors will misappropriate the moneys. The High Court has made rules in this regard and the account can be operated only for specified purposes. That is sufficient notice. Under the law as it stands, when it is marked as "client's account" the solicitor is in the nature of a trustee. The bank treats him as a trustee. What is proposed to be done is to remove the liability of the bank. But so far as the clients, in whose interests the High Court framed the rules, are concerned I do not know whether their interests would be safeguarded. It is a matter for the House to consider. I do not know whether the opinion of the High Court was taken in this matter.

The Honourable Dr. John Matthai: Yes.

Shri H. V. Pataskar: Otherwise the intention of their rules will be nullified. I do not know what special responsibility is thrown on the bank because it is always known that the account can be operated only for particular purposes. In these matters I think—if it has not been done—the High Court of Bombay should be consulted first. Otherwise it will be nullifying their intentions.

Prof. N. G. Ranga (Madras: General): The hon. Finance Minister says that the High Court has agreed to it.

Shri H. V. Pataskar: If the High Court has agreed to it I have nothing further to say.

Shri T. T. Krishnamachari (Madras: General): Sir, I am afraid there is a considerable amount of misapprehension in regard to this Bill because I think hon. Members who are opposed to it or who want further examination of this Bill in a Select Committee have not understood the fact that it is essentially a Banking Companies Bill or a Banking Companies Act. It does not refer so much to the legal practitioners except incidentally. This is a matter which concerns banks. If the rules framed by the Bombay High Court have to be conformed with by banks, by allowing accounts to be opened by lawyers earmarking these accounts as dealing with "client's moneys", Mr. Chakubhai Shah has very clearly explained the difficulties that are experienced in this regard and the only result of the House rejecting the Bill—if it ultimately turns out to be so—will be that banks will refuse to open accounts in the manner the Bombay High Court wanted them to be opened.

Dr. P. S. Deshmukh: Have they done so far?

Shri T. T. Krishnamachari: If every transaction in respect of these accounts has to be covered by a document and all the difficulties that have to be gone through are perpetuated, naturally the only result of it is that the bank will say, "we will not have anything to do with this by or of accounts; let the High Court impose its ruling; we won't open such accounts; let the accounts be in the name of the practitioner and let it be a matter between the practitioner and the client and the High Court". As the hon. the Mover of the Bill has very clearly explained, the Bombay High Court merely followed the practice that exists in England. In England the banks are adequately covered by a similar provision in their enactments referring to Banking companies.

Dr. P. S. Deshmukh: Is not the Bombay High Court competent to withdraw the Rules?

Shri T. T. Krishnamachari: I am sorry my hon. friend does not understand. It is not a matter between the High Court and the legal practitioner. It is a matter between the bank and a constituent who happens to be a legal practitioner and who puts the money for some other purpose than his own.

Dr. P. S. Deshmukh: But under the rules made by the High Court.....

Mr. Speaker: Order, order.

Shri T. T. Krishnamachari: The High Court rules are only incidental. They create a situation in which a legal practitioner has to open a certain type of account. If the bank feels that it is not covered unless there is a document, to cover every transaction in respect of this account naturally the banks are not going to continue to allow accounts of this nature to be opened and submit themselves to all the details that are involved in it. And actually it might happen that that authorisation covering transactions in respect of such accounts might be something which is not valid in one case or the other and the bank will find itself ultimately liable for a transaction to which it is not ordinarily liable. To facilitate a particular procedure which the High Court has named and to enable a bank to open a legal practitioner's account for "client's money" the Bill has been brought forward. My hon. friend Pandit Thakur Das Bhargava says limit it to Bombay. It is limited to Bombay in the first instance. If other High Courts are civilised enough to copy the rules of the Bombay High Court then this will apply to other areas as well. (*Some Honourable Members:* Civilized?) If they are not, they won't apply. It is up to Pandit Thakur Das Bhargava not to permit the Punjab High Court to adopt a similar procedure in which case his clients in Punjab might still be exposed to the risk of not having a separate account in the bank in respect of their moneys and the legal practitioners being free to mix up their own money with the clients' money.

Pandit Thakur Das Bhargava: Which High Court in future is going to make these rules when this Bill is passed? No High Court will make them.

Shri T. T. Krishnamachari: The real position is that this is a measure which enables a bank to open an account of this nature. This is primarily a bankers' affair. The mistake that my honourable friends who are lawyers make is that they presume it covers a lawyer's *vs.* his clients' affair. It is primarily a bankers' affair and if you want banking facilities in order to keep clients' moneys separately you have to conform to the rules of the bank and also give them adequate protection. The clients' interests do not suffer any more than at present; on the other hand it makes it possible for a practitioner to separate his own and the client's money and conform to the rules of the Bombay High Court which I think is wise for every High Court to copy. Therefore, I feel their further examination would not reveal anything new nor is it going to lead

to the improvement of this Bill. My hon. friend the Deputy-Speaker pointed out that there is not even a grammatical error in this Bill, so the Select Committee cannot improve on this Bill. Either the House accepts the Bill or rejects it. I feel a motion for a Select Committee is out of place and a permissive Bill of this nature ought to be passed by this House so that the position of Bombay would be covered. Also, in future if other High Courts choose to follow the example of Bombay High Court the position would be adequately safeguarded so far as the banks are concerned.

Sir, I support the motion.

Mr. Speaker: I think we need not repeat the same argument. The problem here seems to be not only to protect the interests of the banks but also simultaneously to protect the interests of the clients. How it is done is the only question. Otherwise we have had sufficient arguments on this. If there is any other point, Members may speak.

Shri C. Subramaniam: Mr. Speaker, Sir, in my view the rule made by the Bombay High Court does not become infructuous if we pass this Bill. When the lawyer opens a separate account for the client's money, then it will be known for what purpose the moneys are drawn from the banks. If a separate account is not kept by the lawyer then it would be open to him to say, "I had other money belonging to me and I had kept the client's money separately in my house", and plead that there was no misappropriation. But if a separate account is kept, the responsibility of the lawyer being always there—it is not taken away by this Bill—he is liable to account for any money which he draws from that account and if there is any misappropriation it can be easily detected. But if the account is mixed up then it won't be possible. If the responsibility is not there to open a separate account and put the client's money in the bank, then the lawyer can always say even though he has misappropriated it temporarily that he had the money kept in his own house or elsewhere. But when the rule exists and when the money is deposited in the bank, such a plea will not be open to him. Therefore, in my view the passing of this Bill will not make the rule infructuous. On the other hand the responsibility and the liability on the lawyer is always there. Only the bank's responsibility to see to the proper appropriation of the money is extinguished by this Bill. Thus the client's position is always secured because of a separate account as there is always the responsibility of the lawyer. It should be noted that when he misappropriates he is committing a criminal offence and is liable for prosecution and will therefore be careful in keeping the client's money separately.

Therefore, I feel this Bill does not in any way take away the effect of the rule made by the Bombay High Court.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, as you have clearly pointed out, two questions have got to be looked into, namely the interests of the clients and the safety of the bank. We cannot sacrifice any. The Bombay High Court has passed a very good rule. The danger of mixing the client's money with one's own money is that unconsciously sometimes we may overdraw and it is for this reason that the Bombay High Court has passed this rule that the client's money should be kept absolutely separate, that is that money which is deposited with him for a particular purpose should be kept separate.

The question is whether by this Bill we are going to endanger the safety of that client, which has been the objective of the Bombay rule. I submit that the object of the Bombay rule in marking the account as a client's account is to secure against the rather promiscuous withdrawal from that account by ensuring the attention of the bank to the fact that it is a client's account.

[Mr. Naziruddin Ahmad]

That forces to a certain extent a lawyer to keep his own account and the client's account absolutely separate and not to draw any money from the client's account for his own purposes. But if we pass this rule it will frustrate the very object which the High Court has in view, namely if we make it easy for the lawyer to draw money then the object of the rule, that is the protection of the client, would be absolutely gone. The very facility and ease with which the cheques would be drawable under this Bill would be to frustrate the first object. I submit that that object can be secured, securing at the same time the interests of the bank also, by further consideration of the Bill, namely by providing that the bank's safety should be secured by a certificate. My hon. friend the Attorney from Bombay has explained certain difficulties in having a certificate in every case. I submit it would not be a difficulty at all. Certificates may be printed and attached very easily to any cheque and that would make it obligatory on the part of the Attorney to ensure in every case that he uses the cheque for the purpose for which the client has kept the money.

Shri L. Krishnaswami Bharathi (Madras: General): Is there not the presumption that always when he draws his client's money, he must do it?

Mr. Naziruddin Ahmad: If that was so then the rule by the High Court becomes absolutely useless. If there is the presumption that the client's money is never withdrawn by the lawyer for his own purposes then that renders the rule made by the High Court absolutely useless. I proceed on the basis that the object of the High Court, namely the protection of the client's interests, is good. We have started with the theory that the client's interests as well as the bank's interests must be kept in view in passing this law. I submit that in order to make it impossible to frustrate the object of the High Court rule, the Bill would require some amendment or modification. A little trouble or formality of giving a special certificate does not seem to be formidable enough to accept the Bill. It is from this point of view that the Bill requires careful consideration. It need not be opposed but its provisions may be re-cast and re-shaped to serve both the purposes, to make the client's interests safe, at the same time give some amount of safety to the banks.

Mr. Mahboob Ali Baig Sahib Bahadur (Madras: Muslim): Sir, the object of the High Court in framing the rule that the lawyer should keep the money of the client in a separate account is to deduct easily whether he has misappropriated it even though the misappropriation may be temporary.

Mr. Speaker: I was just considering whether the object was not to place the relationship between the lawyer and the client on the basis of a trusteeship rather than that of a mere creditor-debtor.

Mr. Mahboob Ali Baig Sahib Bahadur: My view is that if there is an obligation on the part of the lawyer to keep the money of the client in a separate account in a bank, he cannot misappropriate it even temporarily. If he did it, he could easily be detected. He will not be able to say that the money is there in his account or in his house or in his treasury and so on and so on. It will be easy for the court to detect whether any misappropriation has taken place. Generally, misappropriation of the client's money begins with temporary misappropriation. The expectation is that he will be able to reimburse it within a short time, but subsequently he may be unable to do it, and the client loses the money. So the rule is a healthy one and prevents a lawyer from misappropriating the client's money even temporarily.

But the difficulty is that he may not be easily able to operate upon the bank account. This Bill is intended to facilitate the withdrawal of the money without detriment to the interests of the bank. In occasions where another

man's money is placed by a person, the relationship of trust arises as you, Sir, have pointed out. There is a proviso to clause 3 which says:

"Provided nothing in this sub-section shall apply in the case of an account kept by a legal practitioner as trustee for a special beneficiary."

Clause 3 does not apply in a case of that kind where a special beneficiary is contemplated. The question is whether a client may not be considered to be special beneficiary or whether you are going to give a different meaning to the words "special beneficiary".

Shri A. Karunakara Menon (Madras: General): The Bombay rule requires that all the money of the client should be kept separately; it does not specify any categories.

Mr. Mahboob Ali Baig Sahib Bahadur: So where you mention that the money is kept for a special purpose and the client becomes a special beneficiary, Clause 3 does not apply at all. What the rule contemplates is, supposing a client goes to an attorney and places with him Rs. 1,000 for meeting the expenditures that might arise from time to time such as court fees and so on, the lawyer has to withdraw money for the expenses he has to incur on behalf of the client and the difficulty is that every time he must satisfy the bank that he is withdrawing the amount for the benefit of the client. That obviously is not possible and if under law you fix notice of trust on a bank, then I am sure no bank will accept any such deposit on behalf of the client. So, I submit that while the rule made by the Bombay High Court is sound, healthy and necessary, if you want to give effect to it in a practical manner, then, this Bill becomes necessary.

Another question that arises is this. Supposing he withdraws money for the purpose of spending on behalf of his client, supposing the certificate is given by the court that the money is required for court fees and so on, but after withdrawing the money he pockets it: this is another issue. So let us not confuse these two issues.

The rule is necessary. It prevents the lawyer from misappropriating the money on the excuse that he has it elsewhere with him. Even if he did misappropriate it, you can detect him easily taking into consideration the account he has kept and the expenditure he has incurred on behalf of his client. This rule would prevent the lawyer from misappropriating even temporarily. But in order that it might be made practicable and the banks may not be under an undue obligation, this Bill is necessary. It is a very simple matter. Its need is clear. Therefore, my submission is that it need not go to the Select Committee.

The Honourable Dr. John Matthai: It is obvious from the discussion which has taken place that those hon. Members who have had direct experience of the particular problem to which this Bill relates are satisfied that the measure is necessary and that its passing is an urgent matter. I was particularly interested to hear what my hon. friend from Bombay said about it. I may point out that we did consult the Bombay High Court regarding the provisions of this measure before we introduced it here and the Bombay High Court agreed to it. I may also say that the initiation of a legal measure of this kind arose in the first instance from representations made to us by the Indian Banks Association, who felt very great difficulty in regard to the operation of these accounts under the rules framed by the Bombay High Court.

As my hon. friend Shri T. T. Krishnamachari pointed out, if we do not give this relief to the banks, the necessary result would be that banks would not be in a position to operate an account which would place upon them a

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difficult responsibility. To the extent that the operation of a separate account is a measure of protection for clients, that element of protection would necessarily disappear if banks are unable, under the circumstances as set out in the rule, to operate an account of this kind. Therefore, it seems to me that what little measure of protection the client gets would be withdrawn if this measure were dropped. The matter is an urgent one, because I think the way banks are experiencing difficulty in this matter is putting a certain amount of restriction upon solicitors who want to have sufficient freedom to operate these accounts and, as I said in my opening remarks, it raises an issue of a general character, namely, that this kind of responsibility that you place upon banks is going to impair the free transferability of cheques, which I think is an important point.

I submit that in view of the general trend of the discussion and the urgency and importance of this measure which has been testified to over and over again, there is no case for remitting this Bill to the Select Committee and that the House should agree to it straightaway.

Dr. P. S. Deshmukh: I do not press my motion. I beg leave to withdraw it.

Mr. Speaker: What about Mr. Saksena?

Prof. Shibban Lal Saksena: I also the same, Sir.

Mr. Speaker: I have not yet put it to the House. So there is no question of the motion being withdrawn.

The question is:

"That the Bill to restrict the liability of banking companies in connection with certain transactions by legal practitioners be taken into consideration."

The motion was adopted.

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

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Sardar Hukam Singh (East Punjab: Sikh): Sir, I move:

"That part (ii) of the Proviso to sub-clause (1) of clause 3 of the Bill, be omitted."

Sir, I fail to understand the necessity of this sub-clause. It says "that nothing in this sub-section shall relieve a banking company from any liability or obligation which it would incur or be under, apart from this Act." In my humble opinion it is very clear, so far as clause 3 is concerned, that the Bill will only relieve the banks of their liability to the extent that it is laid down there and there would be no ambiguity or misunderstanding. In my opinion this sub-clause means that this Act would not relieve a banking company of any liability beyond the extent that it does relieve and to me this sub-clause appears to be redundant or superfluous and does not serve any useful purpose. Therefore, I request that it should be omitted.

Mr. Speaker: Amendment moved:

"That part (ii) of the Proviso to sub-clause (1) of clause 3 of the Bill, be omitted."

The Honourable Dr. John Matthai: Sir, I regret I am unable to accept this amendment, because I am advised by my legal advisers that although

this provision may from a certain point of view be regarded as superfluous, it is necessary to put it in order to make the sense absolutely clear.

Sardar Hukam Singh: Then, I wish to withdraw my amendment, Sir.

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: There are a number of amendments to clause 1.

Dr. P. S. Deshmukh: I do not wish to move my amendment, Sir.

Sardar Hukam Singh: Sir, I move:

"That in sub-clause (2) of clause 1 of the Bill, after the words "to every Acceding State" the words "or union of States" be inserted."

Sir, it has been explained by the hon. Minister that, as he has been advised the words "Union of States" would be covered by the words "Acceding State". As the law stands at present, there is no such definition or any interpretation as such that the term "Union of States" will be covered by the words "Acceding State". I, therefore, feel that there should be a specific mention of the Union of States.

Shri T. T. Krishnamachari: May I mention, Sir, that my hon. friend is wrong in his presumption that the Union of States does imply any sort of federal authority. These Unions of States are really a unitary corporate bodies for all practical purposes. Therefore, they are treated as single units. For instance, the Union of Travancore and Cochin is treated as a single unit and the question of a different nomenclature does not, therefore, arise. When you say "Union of States" it only applies to that corporate authority which controls what were formerly a number of states which have now become one state.

Mr. Speaker: If the hon. Member wishes I shall put his amendment to the House. Does he wish me to put it to the House?

Sardar Hukam Singh: Yes, Sir.

Mr. Speaker: The question is:

"That in sub-clause (2) of clause 1 of the Bill, after the words "to every Acceding State" the words "or union of States" be inserted."

The motion was negatived.

Mr. Speaker: The other amendments are almost on the same lines. Does the hon. Member wish to move his amendment?

Dr. P. S. Deshmukh: I do not wish to move my amendment, Sir.

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 Dr. John Matthai: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

INDUSTRIAL FINANCE CORPORATION (AMENDMENT) BILL

The Honourable Dr. Jehn Matthai (Minister of Finance): Sir, I move:

"That the Bill to amend the Industrial Finance Corporation Act, 1948, be taken into consideration."

Sir, the purpose of this Bill is a very simple one. It is to enable institutional investors to invest money in the share capital of the Corporation.

As hon. Members are, no doubt, aware important classes of institutional investors are required to confine investment of their moneys to approved securities. In order that institutional investors may be enabled to invest their moneys in the share capital of the Industrial Finance Corporation, it is necessary to enact that the shares of the Corporation would be approved securities in the sense in which that term is used for the purpose of various Acts. In the Bill there is a reference to the Trusts Act and the Insurance Act, but, as hon. Members will have noticed from the amendments which I propose to move, we want also to include the Banking Companies Act in this context, because at the time this Bill was framed the Banking Companies Act had not come into operation and therefore we did not take into account the question of approved securities as set out in the Banking Companies Act. I propose to remedy that omission by the amendment I propose to move.

There is just one point to which I would like to invite the attention of the House. Institutional investors have already invested moneys in the share capital of the Corporation and it is necessary therefore to regularise this position and that is why the provision in the Bill is made to have retrospective effect from the time the Corporation came into existence.

There is another matter also to which the Bill refers and that is the question of setting up a provident fund for the officers and servants of the Corporation. It is necessary, in the case of a public institution that is rapidly expanding, that provision should be made for that purpose. The Bill, therefore, proposes that the Industrial Finance Corporation should be enabled to make regulations for the purpose of instituting a provident fund. I commend the Bill to the House.

Mr. Speaker: Motion moved:

"That the Bill to amend the Industrial Finance Corporation Act, 1948, be taken into consideration."

Prof. Shibban Lal Saksena (U. P.: General): Sir, I am not moving my amendment for referring the Bill to a Select Committee.

Mr. Speaker: Then, I will put the motion to the vote of the House.

The question is:

"That the Bill to amend the Industrial Finance Corporation Act, 1948, be taken into consideration."

The motion was adopted.

Mr. Speaker: The House will now take up the Bill clause by clause.

Prof. Shibban Lal Saksena: I am not moving my amendment to clause 2.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I move:

"That in clause 2 of the Bill, in the proposed new section 5A of the Industrial Finance Corporation Act, 1948, the word 'contained' be omitted."

I submit this is a purely drafting amendment. In considering the draft Constitution of India which we passed three days ago, we have adopted a new phraseology. Hitherto, whenever we used the expression 'notwithstanding anything contained in this Act or in any other Act', the word 'contained' was freely used in the previous enactments. This, according to the latest

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method of drafting seems to be quite unnecessary. Therefore, the word 'contained', at my suggestion, though without acknowledgement, was carefully deleted by the Drafting Committee. I therefore submit that in view of the new Constitution which has set up a new and better drafting, the word 'contained' no longer seems necessary. This word used freely in the Draft Constitution has been removed by the Drafting Committee in the revision stage of the Constitution. After all we have passed the Constitution and we should swear by it in every breath that we take.

The Honourable Dr. John Matthai: As far as I know, this word 'contained' is sometimes used and sometimes not used. I am inclined to think that it is really a matter of taste. If it is a question of personal taste, I must confess, I have a strong fancy for the word and I would keep it.

Mr. Naziruddin Ahmad: The motion may be put to vote, Sir.

Mr. Speaker: The question is:

"That in clause 2 of the Bill, in the proposed new section 5A of the Industrial Finance Corporation Act, 1948, the word 'contained' be omitted."

The motion was negatived.

The Honourable Dr. John Matthai: Sir, with your permission, I will move both my amendments to clause 2 together.

Sir, I move:

"That in clause 2 of the Bill, in the proposed new section 5A of the Industrial Finance Corporation Act, 1948, for the words, figures and brackets 'the Indian Trusts Act, 1882 (II of 1882) or the Insurance Act, 1938 (IV of 1938)', the words 'the Acts hereinafter mentioned' be substituted."

With your permission I would like to add the words 'in this section' after the words 'the Acts hereinafter mentioned'.

Sir, I also move my second amendment, viz.,

"That in clause 2 of the Bill, in the proposed new section 5A of the Industrial Finance Corporation Act, 1948, after the figures '1938' occurring at the end, the words and figures and the Banking Companies Act, 1949' be inserted."

Mr. Speaker: I am putting both the amendments together:

"That in clause 2 of the Bill, in the proposed new section 5A of the Industrial Finance Corporation Act, 1948, for the words, figures and brackets 'the Indian Trusts Act, 1882 (II of 1882) or the Insurance Act, 1938 (IV of 1938)', the words 'the Acts hereinafter mentioned in this section' be substituted."

"That in clause 2 of the Bill, in the proposed new section 5A of the Industrial Finance Corporation Act, 1948, after the figures '1938' occurring at the end, the words and figures 'and the Banking Companies Act, 1949' be inserted."

Mr. Naziruddin Ahmad: I submit that the words 'in this section' which have been newly added by the Honourable Minister have been taken from my amendment No. 5. I am very glad that this has been accepted. If we say 'hereinafter mentioned' the result will be that the reader would think of some other part of the enactment, though it is mentioned in the very same section. The addition of these words would direct the attention of the reader to this section itself. Sir, my amendments would, if accepted, have made the language simpler though I do not wish to move some of them. I shall move my amendment No. 3 in List I if it is acceptable. You know, Sir, sometimes when serving food, though one might not accept it when offered for the first time, he might accept the second time it is offered.

Shri B. L. Sondhi (East Punjab: General): You are hoping against hope.

Mr. Naziruddin Ahmad: I do not mind hoping against hope. I think the reference to the Act should come in the section earlier as it was originally conceived. Instead of that the Act begins with the expression 'Notwithstanding anything contained hereinafter in the section' and later we mention the

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Act. To my mind, the Act should first be mentioned and, at a later stage, reference should be inserted. There will then be proper sequence. This is after all a drafting amendment and may be left to the Hon. Minister to accept or reject.

The Honourable Dr. John Matthai: My own feeling in this matter is that the moment I accepted the valuable suggestion of my hon. friend Mr. Naziruddin Ahmad that the words 'in this section' should be added all the other points were more or less met. It is not necessary now to reverse the order, because the addition of the words 'in this section' has made the section perfectly all right.

Prof. Shibban Lal Saksena: I am not moving any of my amendments except the one to clause 3.

Mr. Naziruddin Ahmad: In the amendment I suggested I have combined my next amendment also.

Mr. Speaker: The question is:

"That in clause 2 of the Bill, in the proposed new section 5A of the Industrial Finance Corporation Act, 1948, for the words, figures and brackets 'the Indian Trusts Act, 1882 (II of 1882) or the Insurance Act, 1938 (IV of 1938)', the words 'the Acts hereinafter mentioned in this section' be substituted," and

"That in clause 2 of the Bill, in the proposed new section 5A of the Industrial Finance Corporation Act, 1948, after the figures '1938' occurring at the end, the words and figures 'and the Banking Companies Act, 1949' be inserted."

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.

Prof. Shibban Lal Saksena: Sir, I beg to move:

"That in clause 3 of the Bill, in the proposed new clause (kk) of subsection (2) of section 43 of the Industrial Finance Corporation Act, 1943, for the words 'officers and servants' the word 'employees' be substituted."

Sir, clause (kk) says "the establishment and maintenance of provident or other benefit funds for officers and servants of the Corporation." Instead of the words "officers and servants", I have suggested a better word "employees", which means officers, servants, all. All are employees.

Shri R. K. Sidhva (C. P. and Berar: General): I think Prof. Saksena's amendment is a very good amendment. Why officers and servants? Officers also are servants. An officer is not a master. The word "employees" will mean everybody. It is a question of provident fund and should apply to all the servants of the Government. I therefore feel that the word "employees" is a better word and I hope the hon. Minister will accept it. Otherwise it will mean officers and servants only. What about clerks? They are there. Sir, I support the amendment.

The Honourable Dr. John Matthai: Sir, I accept the amendment.

Mr. Speaker: The question is:

"That in clause 3 of the Bill, in the proposed new clause (kk) of subsection (2) of section 43 of the Industrial Finance Corporation Act, 1943, for the words 'officers and servants' the word 'employees' 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: 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 Dr. John Matthai: Sir, I move:

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

Prof. Shibban Lal Saksena: I want that Dr. Matthai should tell us something about the working of the Corporation. He has placed a Bill and he has got what he wanted. We have provided that the shares of the Corporation shall be valid securities for the purposes of the Insurance Act, 1938. We would like to know how far the Corporation has progressed in the last two years.

The Honourable Dr. John Matthai: I would refer the hon. Member to the annual report of the Industrial Finance Corporation. If there is any matter regarding which he would like to have any additional information, I should be very glad to supply it to him. In fact there are certain questions coming up during the question hour during the next few days relating to the Industrial Finance Corporation and I should be very glad to answer any question then.

An Honourable Member: We have not received a copy of the annual report.

The Honourable Dr. John Matthai: I will see to it that copies of the report are made available.

Shri Mahavir Tyagi (U.P.: General): I want to know whether this Industrial Finance Corporation is also liable to liquidation and whether there is any chance of its incurring heavy losses. If there are any such possibilities of this Corporation incurring heavy losses or its being unable to realise its amounts or some other such mishap, do you think it is wise that its shares should be considered as security or is there any guarantee that it will never get into liquidation?

The Honourable Dr. John Matthai: The Corporation have been doing quite well and I do not share the pessimistic prognostications of my hon. friend.

Mr. Speaker: The question is:

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

The motion was adopted.

RESERVE BANK OF INDIA (AMENDMENT) BILL

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

"That the Bill further to amend the Reserve Bank of India Act, 1934, be taken into consideration."

The purpose of this Bill, Sir, is simply to authorise the Reserve Bank to undertake the issue and management of loans on behalf of the Industrial Finance Corporation.

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

I may say that the Industrial Finance Corporation issued debentures sometime in June or July, this year, and on the suggestion of the Reserve Bank we issued an Ordinance for the purpose of enabling the Reserve Bank to undertake the issue and management of those debentures and bonds and practically what I am asking the House to do is to give its approval for translating that Ordinance into a legislative enactment. Now the real reason why we want to authorise the Reserve Bank to do this work for the Industrial Finance Corporation is that, as the House would doubtless realise, the issue of debentures, bonds and so on is rather a technical business—I should say a highly technical business—and the Reserve Bank is therefore the proper organisation for doing this particular work. The Industrial Finance Corporation is a statutory corporation and Government guarantees a minimum return on its shares. Therefore it is in the fitness of things that the Industrial Finance Corporation should be placed on the same footing as the Central Government, the Provincial Governments and the States in the matter of having its loans managed for it by the Reserve Bank. That is all what I have got to say about this, and I hope the House will find no difficulty in accepting this very simple proposal.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Reserve Bank of India Act, 1934, be taken into consideration."

Prof. Shibban Lal Saksena (U.P.: General): Sir, I had given notice of an amendment that the Bill be referred to a Select Committee because I was not aware of the progress so far made by the Industrial Finance Corporation. This also explains my amendments to the other Acts, the Banking Act and so on. Since the hon. Minister has told us that a copy of the Annual Report will be sent to us, I do not propose to move this motion.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Reserve Bank of India Act, 1934, be taken into consideration."

The motion was adopted.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I beg to move:

"That in clause 2 of the Bill, before the existing part (a) the following new part (a) be inserted and the existing parts be re-lettered accordingly:

"(a) for the words 'Central Government', the words 'Dominion Government' be substituted."

With regard to this expression, there has been considerable amount of acrimonious debate in the Constituent Assembly. So far as I understand the position of the Drafting Committee was this and I am accepting

4 P. M. this phraseology simply in obedience to the dictates of the Drafting Committee of the Constitution. Though the Drafting Committee has gone, their memory remains. I submit that the constitutional position in the Constituent Assembly was this. When the Government of India Act of 1935 came into force with effect from the first of April 1937, the Government of India was called the Central Government but since the Indian Independence Act came into operation, the Central Government was gone and the Dominion Government came into existence. It will die a natural death on the 26th of January and then we will have the Union Government or some equivalent

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expression. But so far as those articles of the Constitution are concerned which deal with the present state of affairs, they have always described the Central Government as the Dominion Government. There were protests against this expression that a sense of the past slavery is being perpetuated in the Constitution, but the reply has been that so long as the Constitution does not come into effect on the 26th of January, we shall describe, and fittingly, as the Dominion Government and from the 26th of January, there will be the adaptation Order by the President and from that date the Dominion Government will cease to be so and will automatically be called the Union Government or some other equivalent name. I therefore submit that also in obedience to the wisdom of the Drafting Committee, which is dead, but their wisdom has not died, I submit that this expression should be accepted as being more accurate.

Shri T. T. Krishnamachari (Madras: General): The Drafting Committee has nothing to do with it. Actually the analogy of the Constitution Act does not apply here. The Constitution Act refers to a Government that exists prior to its coming into force and that Government has to be described in terms which are technically correct. We have in this House ever since we have been functioning under the new Government of India Act been using the word 'Central Government'. Of course as my hon. friend pointed out all this will be done away with and after the 26th of January one uniform expression should be used, probably the Union Government where the executive action of the Government is indicated and the Government of India where its general powers are indicated, but at the present moment I think it would be safer for us to follow the old practice, notwithstanding the fact that my hon. friend Mr. Naziruddin Ahmad has in his added wisdom after enacting the Constitution for us, felt otherwise.

Mr. Naziruddin Ahmad: But we opposed the expression in the Constitution.

The Honourable Dr. John Matthai: I agree with my hon. friend Mr. T. T. Krishnamachari.

Mr. Deputy-Speaker: I suppose the hon. Member is not serious in pressing his amendment.

Mr. Naziruddin Ahmad: I do not press it.

Mr. Deputy-Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

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

"That in sub-clause (2) of clause 3 of the Bill, after the words 'action taken', occurring in line 1, the words 'or omitted to be done or taken' be inserted."

Sir, I submit that acts taken in law implies also acts omitted to be taken. In order to make the thing self-complete, we should say 'anything done or any action taken or omitted to be taken' in order to make it complete and in order to include omissions or commissions. The next amendment is merely consequential to this. I submit that this would make the sense complete.

The Honourable Dr. John Matthai: Ordinarily, Sir, my honourable friend whenever he makes a suggestion for an amendment, although it may appear rather odd, generally there is a certain core of real significance in it, but as regards this particular amendment that he has moved, I think it is entirely without significance, because all that the ordinance does is to authorize the Reserve Bank to undertake the management and the issue of debentures. It is open to the Reserve Bank to say: Yes, and it is open to them to say: No, and there is no question of omission at all. The amendment makes no sense.

Mr. Naziruddin Ahmad: Sir, I do not press this amendment either.

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.

Mr. Deputy-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 Dr. John Matthai: I move:

"That the Bill be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

DELHI ROAD TRANSPORT AUTHORITY BILL.

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

"That the 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, be referred to a Select Committee consisting of Shri Satis Chandra Samanta, Ch. Ranbir Singh, Shri Yudhishtir Misra, Dr. P. S. Deshmukh, Prof. Shibban Lal Saksena, Shri R. K. Shukla, Shri Ram Chandra Upadhyaya, Shri Krishna Chandra Sharma, Mr. T. J. M. Wilson, Sardar Hukam Singh, Shri Mohan Lal Gautam, Sardar Suchet Singh, Shri Deshbandhu Gupta and the Mover, with instructions to report on or before the 12th December, 1949 and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, the Delhi Transport Service was taken over by the Government of India from the old G.N.I.T. on 14th May 1948, and it was at the instance of an insistent public demand that this step was taken. The Standing Finance Committee considered this proposal on the 31st March 1948 and then the Committee while approving in principle the scheme made the following observations:

"The Transport Ministry might go ahead with the negotiations for the transfer of the G.N.I.T. company. The service may be run departmentally for some time, no long term commitments being made with the existing staff."

The Committee was not in favour of the permanent running of the service by the Department and desired that the Transport Ministry should come back with an alternative scheme and with a complete memorandum on the subject within a period not exceeding six months.

Sir, opening this new service under the aegis of the Government of India Dr. Matthai said:

"The Government had taken over because I feel that the Transport system of Delhi requires to be developed in a manner and on lines which should be worthy of the capital of the country. I dare say that it is our desire to promote the interests of the Transport Service in Delhi to the greater advantage of Delhi public."

Some at least of the members present here well know how the old G.N.I.T. was running. Probably they might be inclined to forget it while they are inclined to criticize the present Delhi Transport Service. Sir, I would therefore—it is not strictly relevant to the motion—give a few figures as to what has happened to the Delhi Transport Service.

An Honourable Member: Cut out the irrelevant part.

The Honourable Shri K. Santhanam: Well, it is not strictly relevant, but not irrelevant. Hon. Members would like to know the position after it was taken over. I am giving figures for the whole year 1947-48 under GNIT and for the 10½ months up to April 1949 after it was taken over by the Government of India.

The daily schedule mileage was 14,205 under GNIT, which increased to 20,278 under the Government of India. The daily operate mileage under GNIT was 13,002 which increased to 19,393 under departmental management. The number of passengers carried daily by the GNIT was 62,388, which increased to 90,268 under Government. The monthly gross earning under GNIT was 4,04,130 and it increased to 5,79,150.

Shri Ajit Prasad Jain (U.P.: General): What is the corresponding expenditure?

The Honourable Shri K. Santhanam: I will give the profits, because it is often stated that under state management things are managed uneconomically. The total profit for the whole year under GNIT was Rs. 2,12,394. Under departmental management it increased to 10,60,120.

Shri L. Krishnaswami Bharathi (Madras: General): What is the capital outlay?

Sgt. Kuladhar Chaliha (Assam: General): You did not pay any income-tax.

The Honourable Shri K. Santhanam: The figure of 2 lakhs made by the GNIT was the gross sum before tax was paid.

An Honourable Member: What about depreciation?

The Honourable Shri K. Santhanam: I do not think there was any depreciation account in the old GNIT. We are maintaining a fat depreciation account.

Shri B. L. Sondhi (East Punjab: General): Have you paid any bonus so far to the workers which was paid by the old GNIT?

The Honourable Shri K. Santhanam: As soon as the Government of India took over the wages were increased and the increase amounted to much more than what would have been paid as bonus.

Mr. Deputy-Speaker: Does the figure given by the hon. Minister cover even the strike period?

The Honourable Shri K. Santhanam: It is for the 10½ months up to the 31st March, 1949.

Sgt. Kuladhar Chaliha: What is the capital investment?

The Honourable Shri K. Santhanam: I am quite willing to give any facts that hon. members want. But these have no direct connection with the actual motion. The motion is for the appointment of a select committee to consider a bill for the establishment of a Delhi Road Transport Authority. I

[Shri K. Santhanam.].

wanted to make these preliminary remarks to show that we have not brought this motion simply to shelve a responsibility which we are not able to fulfil. When we undertook the transfer, the Standing Finance Committee laid on the Government of India the specific obligation to bring in a Bill of this kind. We also found that this step was necessary because it was not possible for a big Ministry of the Government of India to conduct the day to day affairs of a purely local service. Sometimes the local service becomes a headache and takes too much of our time. At other times there is a tendency on the part of the Ministry to forget its existence and let it go as it likes. Therefore an authority is necessary which will be present on the spot and deal with matters day to day and arrive at quick decisions.

The House also knows that in the case of the Government of India the procedure of financial scrutiny and sanction has to be necessarily elaborate but it is not suitable for a concern like the Delhi Transport Service, which requires urgent renewal of parts, or buying of engines or other plants which cannot wait for three or six months for the scrutiny and the going through of the procedure of the Government of India. It is for this purpose that this motion has been brought forward. I do not think there can be any objection to the principle of the motion. Therefore I wish merely to point out some of the salient features of the Bill, because all the provisions are bound to be scrutinised by the Select Committee and the House itself will have an opportunity to discuss the details when the Bill emerges from the Select Committee. It would therefore be a waste of time to go into details at the present stage.

The main points are very few. The Government of India will be providing all the capital and it will be treated as a loan on which interest will be payable to the Government of India.

Shri M. Tirumala Rao (Madras: General): What will be the probable amount of the capital?

The Honourable Shri K. Santhanam: Up to date we have invested over 60 lakhs and we will have to go up to a crore of rupees.

The management will be entrusted to a Delhi Road Transport Authority consisting of seven persons, all nominated by the Central Government—three being officials, 3 non-officials and one being the Chief Commissioner or any official nominated by him. It is essential that the Central Government should be the authority to nominate. In appointing non-officials care will be taken to see that members of the Delhi Municipal Committee or local institutions who will have day to day intimate contact with the service will be appointed.

While the Delhi Road Transport authority will have a considerable measure of autonomy, the financial responsibilities of the Government of India will remain intact. The Government of India will have the power to give directives on most of the important matters including even labour conditions. For large expenditure the sanction of the Government of India will have to be obtained.

I wish to mention two more points. There is wide scope given to the Authority to expand its activities. While it is mainly concerned with running the road transport service in Delhi, it will be entitled to expand the service to neighbouring areas with the consent of the neighbouring governments. It could set up plants for the building of motor bodies or for the manufacture of some of the essential parts. It depends upon the manner in which the Transport Authority will work. It will also have the right to run lorry service. We have given the Transport Authority as wide a scope as we possibly could. The annual reports will be placed before Parliament for scrutiny and for such discussion during the budget or other times as may be found necessary.

The other provisions are as usual and I do not want to waste the time of the House in going through them. I hope, Sir, my motion will meet with the unanimous acceptance of the House.

Shri Mahavir Tyagi (U.P.: General): Will ठेलास (thelas) also be used for transport of goods?

The Honourable Shri K. Santhanam: The power of the Authority is limited to using mechanically-propelled vehicles.

Shri Gokulbhai Daulatram Bhatt (Bombay States): What about the use of motordriven rikshas?

The Honourable Shri K. Santhanam: If the Transport Authority thinks it is worthwhile.

Mr. Deputy-Speaker: Motion moved:

"That the 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, be referred to a Select Committee consisting of Shri Satis Chandra Samanta, Ch. Ranbir Singh, Shri Yudhishtir Misra, Dr. P. S. Deshmukh, Prof. Shibban Lal Saksena, Shri R. K. Sidhva, Shri Ram Chandra Upadhyaya, Shri Krishna Chandra Sharma, Mr. T. J. M. Wilson, Sardar Hukam Singh, Shri Mohan Lal Gautam, Sardar Suchet Singh, Shri Deshbandhu Gupta and the Mover, with instructions to report on or before the 12th December, 1949 and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Professor Saksena.

Shri O. V. Alagesan (Madras: General): There is a convention that members who are on the Select Committee shall not speak.

Shri R. K. Sidhva (C.P. and Berar: General): Not necessarily, Sir. You yourself have spoken.

Mr. Deputy-Speaker: Prof. Saksena has given notice of an amendment to this motion. Therefore I have called upon him to speak. I shall reserve my judgment with respect to the others.

Shri R. K. Sidhva: Even otherwise there is no binding ruling.

Mr. Deputy-Speaker: I do not accept it is binding, but I shall give preference to those whose names have not been included in the Select Committee.

Prof. Shibban Lal Saksena (U.P.: General): Sir, I would only suggest that the date for submitting the report should be changed to the 8th because we have the meetings of a Conference on the 9th, 10th and 11th and if the Select Committee meetings are kept on for the fag end probably we shall not be able to attend.

The Honourable Shri K. Santhanam: 12th December does not mean that the meetings will be held on the 9th, 10th and 11th. I am quite prepared to hold the meetings earlier.

Prof. Shibban Lal Saksena: My hon. friend Mr. Santhanam has given us some idea of the working of the Delhi Transport Service during the last one year. I am very glad that he has given us these figures. I have carefully read this Bill and I want to draw the attention of the House to this.....

Mr. Deputy-Speaker: Probably the Honourable Member does not intend to move his amendment. If that is so he may sit with the hon. mover for discussing if any more names are to be added.

Shri M. Tirumala Rao: Is he called upon to speak only on his amendment?

Mr. Deputy-Speaker: No. But if he is moving the amendment it has to be moved before he speaks.

Prof. Shibban Lal Saksena: Sir, the Delhi Transport Service is probably an experiment in nationalisation which our Government has undertaken after coming into power. I had therefore expected that the working of the D.T.S. during the last eighteen months would be something of which we could be proud. The figures given by the Honourable Mr. Santhanam, I am afraid, do not give the correct picture and it is therefore my intention to bring to the notice of the House some aspects of the working of this system.

Shri L. Krishnaswami Bharathi: Is that the question before the House?

Prof. Shibban Lal Saksena: The question is about 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 and a Bill is presented for the purpose. What I want to say is this, namely, that the Delhi Transport Service was taken over by the Government on the 14th of May, 1948. The first question I want to put is this. When this transport service was taken over I think it was not proper that the matter should not have been brought before the Assembly. In fact I was studying the British Transport Act which has been passed in Great Britain and which nationalised all transports there. I find that when they took over all the transports and nationalised them they first passed a Bill in which they provided how all the various companies running the transport there will be taken over. They laid down principles on a commercial basis and laid down how all of them will be acquired. But here this was done without any reference to the House. The D.T.S. was acquired for about twenty lakhs of rupees, and it comprised of about 190 vehicles and about sixteen jeeps and other such vehicles. The actual net cost price of these 190 and odd vehicles was about Rs. 28 lakhs. For these Rs. 28 lakhs worth of vehicles Government paid Rs. 20 lakhs and many of these vehicles were as new as 1948; some were 1947, some 1946, some 1945 and some 1944. In fact I have given in my brochure to all my colleagues the various vehicles and the year in which the vehicles had been purchased. I have found that during the eighteen months of the operation of the D.T.S. by the Government the life of the buses, which normally was five years, has been reduced to hardly one year and in some cases even less.

Shri L. Krishnaswami Bharathi: Who is responsible? Is it the workers?

Prof. Shibban Lal Saksena: What I am saying is that when the service was taken over by Government, reference should have been made to this House so that the principles might have been laid down. In fact in the British Act they have laid down the compensation for road vehicles also. They said that one-fifth of the cost of the vehicle should be deducted for every year of operation. That is the way in which they calculated the cost of the vehicles. They took five years as the normal life of a vehicle. Here for Rs. 28 lakhs worth of vehicles a sum of Rs. 20 lakhs was paid which means 75 per cent. And if that be so that means that the life of a vehicle also was taken as five years. But actually, out of 190 buses that were plying on the 7th of September only thirty-six were left on the road. That shows that about 160 buses were out of use. That can be due to this reason: When the buses were taken over, they were taken over without proper supervision and the public money was wasted upon that scrap. If anybody goes to the D.T.S. workshop he will find about 150 buses lying as a heap of scrap. I therefore think that it was a grave mistake on the part of the Ministry to have taken over those buses without having brought the Bill here and taken the consent of the House to the principles on which they would be taken over.

My friend Mr. Bharathi enquired how it was that the life of the buses has gone down. In fact if he has read the pamphlet which I have circulated he would have found that it was due particularly to the mismanagement of the

whole thing. I am glad that on my complaints the Government appointed an Enquiry Committee of Experts and those experts reported as a result of which the Manager who was put in charge was removed. I am thankful to the Government for what they did, but I do wish that when such ventures are taken over proper care should be taken because the mere removal of a manager will not bring back to the exchequer the money spent upon it and the loss that Government has sustained. My only intention in drawing the attention of the hon. Minister at the very first instance to this was that this loss which is going on should be stopped. I am only sorry that all that should have continued right through for several months, and that probably increased the loss.

Then I come to the question of labour. Well, this is a nationalized service. My hon. friend told us that the profit made now was about Rs. 10 lakhs whereas formerly it used to be Rs. 22 lakhs. That only shows that in private hands the main aim was more profits without seeing how the labour employed were working. It must also be remembered that the total investment of the G. N. I. T. was those 190 buses for which the Government paid Rs. 20 lakhs. But the Government's capital included, in addition to this, Rs. 25 lakhs for purchasing 125 new buses. Therefore, the profit of Rs. 10 lakhs is on the new buses and the old ones. There is really no comparison between the old rate of profit and the new rate. You will have to compare on the total investment originally made. The number of buses also has really increased. Formerly they were only half the number of what exists now.

The Honourable Shri K. Santhanam: That is exactly the point I want to make, that the service has improved.

Prof. Shibban Lal Saksena: Sir, I was going to tell my friend that in a public service the condition of labour should be ideal, but I was shocked to see otherwise when I visited the depot as President of the Labour Union. I had occasion to meet the workers and to know their grievances. I found the Factories Act was not at all applied in the workshops. It was extraordinary that this being a concern of the Government of India, the Factories Act should not be enforced in the workshop which under the law it should have done long ago. The hours of work of the workers sometimes are as much as 11 hrs. 15 minutes per day. I have in my hand certain routes on which workers have to work about 11 hrs. per day. Route No. 16 starts at 6.15 in the morning, runs till about 11.55, then starts at 5.0 P.M. and goes on till about.....

Mr. Deputy-Speaker: May I ask whether all these details are relevant for the purpose of the motion? The principle of the Bill is that the management should be entrusted to a statutory authority. If the hon. Member is trying to make out that it must be given away to private agencies, I can understand it. He cannot say one thing and mean another and blow hot and cold. On the one hand there is State management; but when the profits are due to additional buses then he says the hours of work are more and so on. We are not discussing an administration report relating to the company. The question is whether a statutory authority is desirable or the State management should continue.

Prof. Shibban Lal Saksena: I am comparing this Bill with the British Transport Bill. I am pointing out that that Bill makes provisions for labour and ensures adequate representation to them. But the conditions in our D.T.S. for the last two years have been different. I suggest that this Bill should be so amended in the Select Committee that all these things now become possible. I am sorry this Bill does not make any provision for labour. The present conditions for labour are not at all satisfactory. Also, treatment of labour in a nationalized management like this should have been

[Prof. Shibban Lal Saksena.]

ideal. But we have here work for 11 hrs. 15 minutes a day and if we add the time the man spends to and fro the depot it would mean the whole day is spent by him. The man comes at 9.15 in the morning and goes away at about 21.15 hrs. in the evening. That shows the whole day he is on work. The spreadover also is for about 15 hrs. All this is against the very Factories Act which we passed ourselves. In the British Transport Act there are provisions about labour also. In fact, if my hon. friend Mr. Santhanam will look into it he will find there is a separate chapter about conditions of employment in which all these things have been laid down, but in the Bill before the House there is no such chapter and no mention of labour—even if there is any mention it is by the way and in a very perfunctory manner.

Sir, this Bill should be completely re-cast and should be made a sort of a model for all nationalized concerns. The constitution of the authority under this Bill will be as follows: three non-officials nominated by the Central Government, 3 officials nominated by the Central Government to represent Ministries of Transport, Finance and Industry and Supply and the Chief Commissioner of Delhi or his nominee. Let me compare this constitution with that of the British Transport Commission. There they have got one Commissioner and five executives.

Shri B. Das (Orissa: General): Why British? Let us have our own.

Prof. Shibban Lal Saksena: I don't mind you having your own.

Shri T. T. Krishnamachari (Madras: General): But the British Transport Act covers the entire transport system of England. The present Bill is very restrictive in scope.

Prof. Shibban Lal Saksena: I quite know, but I want that it must be modelled on that. The Commission which we have proposed should have the same power as the Road Executive in England and it should function in the same manner. The three members from Government Departments and the three non-officials, all of them cannot be held responsible for the entire transport system. They can be merely advisers. I would suggest that instead of having this Commission of seven, it should consist of a Chairman, a General Manager and an Accountant. The Bill should be so overhauled.....

Shri C. Subramaniam (Madras: General): The hon. Member can make all these valuable suggestions before the Select Committee. After all, he is a member of that Committee.

Mr. Deputy-Speaker: What I find is that very often Members of the Select Committee make suggestions here and if they are wholly unnecessary or out of place they may refute those allegations.

Prof. Shibban Lal Saksena: What I wanted to say was that this Delhi Road Transport Authority should become a model nationalised industry and should be an example to other concerns. We should make an experiment by having the General Manager, the Chief Accountant and one representative of the unions. They should be the persons who should run the whole thing. There should be an advisory council consisting mostly of members of the public who use the transport system. They may give advice in the manner in which the Transport Users Committee does in England. The biggest defect of the present system is that nobody is held responsible. The three members of the Industries, Finance and Transport Ministries are not and cannot be there all the time. The Chief Commissioner also will not be there. Yet they will be the men who will formulate the policy. This is a cumbersome system and is of no use. The men who are in charge of running the system should be the men who should be held responsible for running it.

Hence my suggestion to have the General Manager, the Chief Accountant and one representative of labour, who will be wholtime men and shall from his Authority and they should be advised by an advisory council consisting of members of the travelling public, and with the joint efforts of these two, the whole thing should be run.

I have carefully examined the provisions of this Bill. They are not very happy. I wish they were more comprehensive and exact. I do not want to tire the House with my suggestions. I wish merely to say that the hon. Shri Santhanam will remodel the Bill on the basis of the London Transport Act. I suggest that the labour portion in that Act should be incorporated here. It has not been a very happy experience either for me or for the Delhi people that they experienced a strike forced upon them in spite of ten months of negotiations. Even now, there are 140 workers out of job. I do feel that the nationalised transport should be an ideal industry and should be the pride of all. I can only say that this House shall watch with great interest the experiment which has been launched. I only wish that Mr. Santhanam were more responsive to our suggestions and carry them out for the welfare of the whole country.

Shri C. Subramaniam: Mr. Deputy-Speaker, the mover of this Bill deserves congratulation, not for the Bill but for having taken over the whole bus transport system in Delhi and for having re-organised it. The service when it was being run under the old G.N.I.T. management was a disgrace to the capital. It used to be said that G.N.I.T. meant "Goes Never In Time". Now we find very good buses and I hope they are keeping time.

Shri R. K. Sidhva: Have you travelled?

Shri C. Subramaniam: Oh, yes.

Shri R. K. Sidhva: How long have you had to wait in queue?

Shri C. Subramaniam: I am glad that this transport system has been taken over by Government and is going to be entrusted to a statutory corporation. That is as it should be. I feel that nationalisation of any industry or undertaking should be on the basis of statutory corporations. It should not be run departmentally, because we find ever so many defects in departmental running. As the hon. Minister himself admitted, at times they are unable to go into details and at many others they find it a headache. Therefore, it is good that a statutory corporation is being set up for running the Delhi transport system.

There is one other thing which I want to mention in this connection. It is this. When we nationalise a transport system, it is necessary that we should take over the existing vehicles. It should not be viewed merely from the Governmental point, that they would be able to put new buses on the road. If the existing vehicles are allowed to remain idle, it would be a tremendous national waste.

The Honourable Shri K. Santhanam: They have all been taken over.

Shri C. Subramaniam: I know that and I am glad. But in Madras, when they nationalised the transport system there, all the existing carriages were left in the lurch. One operator alone had 150 buses and many of them, I understand, still remain idle. It is all right for the Government to say that they would be able to import new buses, but at what cost to the nation? They should realise that.

There are a few salient features of the Bill to which I wish to refer and offer my own criticism, so that necessary changes might be made in the Select Committee stage. You will find that sub-clause (2) (c) of clause 20 gives the Authority

[Shri C. Subramaniam.]

power to compulsorily acquire either wholly or in part any undertaking. We have just now passed the Constitution Act. There is section 31 which says that whenever a law is passed for compulsory acquisition of any property, the manner in which and the principles on which compensation should be paid should be provided in the very law itself.

Mr. Deputy-Speaker: There is clause 47.

Shri C. Subramaniam: I am aware of clause 47. What does it say? It says:

"compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say—

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the amount shall . . . be determined by an arbitral tribunal consisting of one nominee of the Authority, one nominee of the person to be compensated and one nominee of the Central Government who shall be the Chairman of the tribunal;

(c) an appeal shall lie to the District Judge against the decision of the tribunal."

Now this clause provides the manner in which it should be determined, but what is the principle? Is it market value? Is it 20 times the profits earned during a particular period? Or is it the book value minus depreciation? These would be principles involved. It is no use saying there shall be an arbitral tribunal and appeal shall lie to the District Judge. On what basis will the District Judge decide whether the compensation given is fair, adequate or just? There is absolutely no material on that point. You will see that section 31 of the Constitution provides that the law should also lay down the principles on which compensation should be determined. You might know that the Electricity Nationalisation Act in Madras is being discussed in the Madras Legislature now. I know it was returned three or four times by the Central Government on the ground that the principle of compensation should be embodied there. Now, when the Central Government itself is bringing forward a Bill, they should take more care to conform to the requirements of section 31 and the principles and not merely the manner in which the compensation shall be paid should be incorporated in their proposed legislation. This Bill does not lay down the principle on which compensation will be paid. I think the Select Committee will go into this matter and see that proper provisions in regard to compulsory acquisition are incorporated in the Bill.

Then, Sir, I come to clause 50 which deals with the 'Power of Entry'. After all this is a statutory authority for the purpose of running a transport service. Should that authority be given the power of entering upon any land or premises and there do such things as may be reasonably necessary for the purpose of carrying out survey, examination, or investigation etc.? After all this Authority is just like any other limited company running transport services. Simply because the authority is set up by the Government it does not mean that its servants and officers should be given power to enter into any premises. The power of entry should, therefore, not be given to the officers of the Authority.

I would like to point out one other feature of the Bill. It relates to the last clause, clause 55. Sub-clause (3) says:

"In making any regulation under this section the Authority may, with the previous sanction of the Central Government, provide that the breach thereof shall be punishable with imprisonment which may extend to three months or with fine which may extend to five hundred rupees, or with both, and when the breach is a continuing one, with a further fine not exceeding twenty rupees for every day after the date of the first conviction during which the offender is proved to have persisted in the offence."

Even under rule making powers we have been objecting to the creation of offences and providing for the punishments thereof. But by a regulation to be made by a statutory authority created only for the purpose of running transport services power is to be given to create offences and provide for punishments therefor, Sir, this is going too far. That is my respectful submission.

Another matter to which I would like to refer is clause 52 regarding immunity from legal action. Clause 52 runs:

"(1) No suit, prosecution or legal proceeding shall lie against any person in the employment of the Authority for anything which is in good faith done or purported to be done under this Act.

(2) Save as otherwise expressly provided in this Act, no suit or other legal proceeding shall lie against the Authority or the Central Government for any damage caused or likely to be caused by anything in good faith done or purported to be done under this Act."

After all this is not a Government by itself. It is merely an authority for the purpose of running buses and as such it should be liable for damages caused to anybody else and should also be liable to be sued. I do not see any reason why this authority should be exempt from all legal proceedings. Suppose a person is run over. Is he not entitled to damages? Suppose compensation is not given to him. Is he not entitled to go to a court of law and sue the authorities? So, I fail to understand why this all-embracing sub-clause (2) "Save as otherwise expressly provided in this Act, no suit or other legal proceeding shall lie against the Authority or the Central Government for any damage caused or likely to be caused by anything in good faith done or purported to be done under this Act" should be incorporated in the Act. This is a matter which I hope will be gone into by the Select Committee.

Sir, I have gone through this Bill a bit carefully. I find the drafting is too bad. There is a provision in the Civil Procedure Code giving appellate courts the power of sending back cases for judgments to be properly written. If you have the power, I would suggest sending back this Bill for being properly drafted. For example, I would read out certain clauses so that hon. Members of this House may understand how the drafting has been done. For instance clause 20 (1) (k) reads:

"(k) to purchase or otherwise secure by agreement vehicles, garages, sheds, office buildings, depots, land, workshops, equipment, tools, accessories to and spare parts for vehicles, or any other article owned or possessed by the owner of any other undertaking for use thereof by the Authority for the purpose of its undertaking;"

I am unable to understand the grammar of it, the sense of it, or what they mean by it.

Then again sub-clause (1) reads:

"to do anything for the purpose of advancing the skill of persons employed by the Authority or the efficiency of the equipment of the Authority or of the manner in which that equipment is operated, including the provision by the Authority, and the assistance of the provision by others, of facilities for training, education and research."

I do not know what it means. I do not know whether the person who drafted it knows English or not. (An Honourable Member: Because Hindi is going to be the national language.) But that is no reason why you should use bad English.

I have marked at least twenty points wherein the drafting is very bad, and all these will have to be redrafted. Further we should realise that this is only just like a limited company running some transport services within a certain area. It may have a capital of Rs. 60 lakhs. But is it necessary to come forward with a Bill of 55 clauses and waste the time of the House? For

the purpose of setting up an authority of this sort, all that is wanted is an enabling Act. An enabling Act may be passed and the other matters like how the authority should be set up, how it should work, and such other things may be done under the rule making powers. That is what we have done in the Road Transport Corporation Act, of 1948. Instead of going into all the details, they could have come up with a short Bill with at the most twenty clauses and be done with it. I hope the Select Committee will scrutinise the Bill and make it a model one for others to copy. I am sure Mr. Santhanam, if he scrutinises the Bill with the same critical eye as he used to do when he was not a Minister, will be able to find out the mistakes and be able to rectify them.

The Assembly then adjourned till a Quarter to Eleven of the O'clock on Tuesday, the 29th November, 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS).

Tuesday, 29th November, 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.

MOTION FOR ADJOURNMENT

ENHANCEMENT OF EXPORT DUTY ON BLACK PEPPER

Mr. Speaker: I have received notice of an adjournment motion from Mr. Poonacha, which reads as follows: "To discuss a definite matter of urgent public importance, viz., the difficulties caused to the growers of black pepper in India by the recent enhancement of Export duty on black pepper and the consequent repercussions caused thereby." The matter seems to be vague, but I would like to know how the position factually stands.

The Honourable Shri K. C. Neogy (Minister of Commerce): I should have preferred to answer a question on the subject even on short notice, but I want to tell the House that there is a serious misapprehension on which the proposed motion has been based, and when I explain to the House the particular point, I am hopeful that the hon. Member would withdraw his notice. It has been said that the duty has been imposed at 30 per cent. It is undoubtedly true that the duty has been expressed at 30 per cent., but then the most important factor that would determine the ultimate incidence of this duty is that the duty will be payable on the tariff valuation which stands at the present moment at Rs. 200 per cwt., although the market value of the stuff stands at Rs. 450, so that in effect this duty will operate as a duty on the invoice value at the rate of very nearly 13 per cent. as against 30 per cent., although it has been expressed in terms of 30 per cent. I understand there was a deputation representative of the trading interests concerned which met the officers of the Ministries of Commerce and Finance and when the position was explained to them they apparently went back more or less satisfied.

Shri Mahavir Tyagi (U.P.: General): I submit this is no argument, because the duty is there.

Mr. Speaker: Order, order. I am not going into the merits of the case at all. I only wanted to know whether the matter was really urgent, of public

[Mr. Speaker]

importance and definite. It appeared to me to be vague enough, but it seems now, in the light of the facts stated by the hon. Minister, that there is no urgency about it. I therefore do not see any reason to admit it.

Shri C. M. Poonacha (Coorg): May I ask one question now?

Mr. Speaker: No, not now. We will proceed with the business of the House.

PAPERS LAID ON THE TABLE

- (i) REPORT OF REHABILITATION FINANCE ADMINISTRATION, ENDING 30TH JUNE, 1949.
- (ii) GENERAL REVIEW OF WORKING OF REHABILITATION FINANCE ADMINISTRATION.
- (iii) AMENDMENTS TO INDUSTRIAL FINANCE CORPORATION OF INDIA EMPLOYERS' PROVIDENT FUND REGULATIONS, 1948.

The Honourable Dr. John Matthai (Minister of Finance): I lay on the Table a copy of each of the following papers in accordance with sub-section (2) of Section 18 of the Rehabilitation Finance Administration Act, 1948:

- (i) Report of the Rehabilitation Finance Administration for the half-year ended 30th June, 1949. (See Appendix IV, annexure No. 16.)
- (ii) General review of the working of the Rehabilitation Finance Administration for the period ending 31st August, 1949. [Copy placed in the Library. See No. IV A.O. (67a).]

I also lay on the Table a copy of certain amendments to the Industrial Finance Corporation of India Employees' Provident Fund Regulations, 1948, in accordance with sub-section (3) of Section 43 of the Industrial Finance Corporation Act, 1948. [Copy placed in the Library. See No. P-20/49. Also published in the Gazette of India, Part III, September 3, 1949.]

FOREIGN EXCHANGE REGULATION (AMENDMENT) BILL

The Honourable Dr. John Matthai (Minister of Finance): I beg to move for leave to introduce a Bill further to amend the Foreign Exchange Regulation Act, 1947.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Foreign Exchange Regulation Act, 1947."

The motion was adopted.

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

MERCHANT SHIPPING AND LIGHTHOUSE (AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister of Commerce): I beg to move for leave to introduce a Bill further to amend the Indian Merchant Shipping Act, 1923, and the Indian Lighthouse Act, 1927.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Merchant Shipping Act, 1923, and the Indian Lighthouse Act, 1927."

The motion was adopted.

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

ABDUCTED PERSONS (RECOVERY AND RESTORATION) BILL

Dr. B. V. Keskar (Deputy Minister of External Affairs): I beg to move for leave to introduce a Bill to provide, in pursuance of an agreement with Pakistan, for the recovery and restoration of abducted persons.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to provide, in pursuance of an agreement with Pakistan, for the recovery and restoration of abducted persons."

The motion was adopted.

Dr. B. V. Keskar: Sir, I introduce the Bill.

BUSINESS OF THE HOUSE

Shri B. Das (Orissa: General): Before you call upon the hon. Dr. John Matthai to move the motions standing in his name on the Order Paper, may I suggest that he may move both the motions No. 1 and 2, because the speeches will be overlapping each other if they are moved separately. The general discussion may be on both the Motions.

Mr. Speaker: If that is suitable, I have no objection. He may move both the motions.

PAPERS LAID ON THE TABLE

- (i) WHITE PAPER ON 1949 STERLING BALANCES NEGOTIATIONS
- (ii) LOAN AGREEMENTS RELATING TO RAILWAY AND AGRICULTURAL MACHINERY

The Honourable Dr. John Matthai (Minister of Finance): Before I move the motions, I wish to lay on the Table of the House the following papers:

- (i) A White Paper on the 1949 Sterling Balances Negotiations with the United Kingdom Government. [Copy placed in the Library. See No. IV. O. 4(6a).]
- (ii) Copies of loan agreements relating to railway and agricultural machinery projects entered into with the International Bank for Reconstruction and Development. [Copy placed in the Library. See No. IV. O. 4(30) and No. IV. O. 4(31).]

I would like to explain that copies of the White Paper were made available to hon. Members some days ago. At the same time, I circulated summaries of the main terms of the two agreements with the International Bank. Copies of these agreements are also in the Library of the House. I have not circulated to each hon. Member copies of the full agreements, as they are bulky documents covering several pages each. I am sure the House will appreciate the need for economy in these difficult days. Further, they are verbose documents couched in legal and technical language, and I thought it would help hon. Members if I had brief summaries prepared of the main articles, so that the gist of the agreements would be quickly accessible.

Prof. N. G. Ranga (Madras: General): Very good.

- (i) MOTION RE STERLING BALANCES AGREEMENT OF JULY 1949.
- (ii) MOTION RE POLICY OF GOVERNMENT ABOUT NEGOTIATIONS FOR LOANS FOR FINANCING DEVELOPMENT PROJECTS AND AGREEMENTS CONCLUDED WITH INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT.

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

"That the Sterling Balances Agreement of July, 1949, entered into with the United Kingdom Government be taken into consideration."

[Dr. John Matthai]

I also move:

"That the policy of the Government of India in entering into negotiations with the International Bank for Reconstruction and Development for loans for financing reconstruction and development projects in India, and the Agreements concluded so far, be taken into consideration."

As regards the first motion, the House will recall that on my return from London I made a detailed statement at a Press Conference held on the 4th of August, 1949, and I shall now only touch on the main features of the Agreement. In the first place, by the beginning of July 1949 we had overdrawn to the extent of £81 million during the period July 1948 to June 1949, for which period the 1948 discussions did not provide for any release. The House is aware of the reasons for this overdrawal, which are, briefly: that through the operation of a liberal import policy and greater availabilities in soft currency countries of the goods required by us, our imports increased more than we had originally anticipated and our exports, particularly after March 1949, began to decline. This overdrawal has now been regularised and will not affect the releases of sterling for 1949-50 and 1950-51.

Secondly, when the Open General Licence No. XI was withdrawn in May 1949 it was considered desirable, both in the interest of our own economy and that of the United Kingdom, that there should not be a too sudden cancellation of outstanding orders and that the process of bringing down our imports to a more realistic level should be a gradual and tapering one. Provision has, therefore, been made in the agreement that the sterling required for meeting the charges arising out of this "tapering off" process will be available in addition to the normal release. We have undertaken to complete this process by June 1950 and the United Kingdom have agreed that a sum of approximately £50 million will be released for this purpose. It is not possible to say at present what the amount finally involved will be, but in our own interest, it is desirable that it should not be excessive and we believe it will not exceed the tentative figure of £50 million.

Thirdly, the annual release for 1949-50 and 1950-51 has now been increased from the original figure of £40 million agreed on during the July 1948 discussions to £50 million.

I now turn to the dollar sector of the agreement. The 1948 agreement allowed us £15 million, that is at the old rate of exchange 60 million dollars in convertible releases. Our estimated deficit at the time was 160 to 180 million dollars and we were expected to meet the difference by purchasing a hundred million dollars from the International Monetary Fund. The final estimate of the dollar deficit for the 12 months ending June 1949 is 213 million dollars, against a provisional figure of 217 million dollars which I mentioned at my Press Conference. This increase in our deficit together with the fact that we were able to purchase only 56 million dollars from the International Monetary Fund during this period and a fall in our export earnings resulted in an overdrawal of dollars which is now estimated at 80 million dollars. The Agreement provides that this overdrawal shall be regularised.

Hon. Members will, therefore, see that since July 1948 we have obtained convertibility to the extent of 140 million dollars against the original figure of 60 million dollars.

As regards 1949-50, the problem of convertibility was discussed not on a bilateral basis with the United Kingdom Government, but was negotiated as a part of the Commonwealth Finance Ministers discussions. In order not to deplete the central reserves of gold and dollars any further all Commonwealth Governments agreed to limit their dollar imports during the twelve months ending June 1950 to 75 per cent. of their dollar imports during the calendar year 1948. The acceptance of this "cut" by us was part of a joint effort by

the Commonwealth and appears already to be achieving the results desired. It is not possible precisely to evaluate what this arrangement means to us in terms of convertibility, for it is difficult at this stage to forecast the trend of our dollar export earnings owing to devaluation. But on a pre-devaluation

12 Noon tion basis of those earnings it was estimated that we should be entitled to draw approximately 140 million dollars. Thus for the twenty-four months beginning July 1948 and ending June 1950 we shall have obtained dollar convertibility of 280 million dollars.

As a result of the removal during the recent discussions of the quantitative limitation on our convertibility drawings from the central reserves we have once again assumed full rights, however, as a member of the Sterling Area. These rights also entail corresponding obligations and it must be our aim in the interest of the sterling area as well as of ourselves to increase our dollar earnings to the fullest extent possible.

There are two other points to which I would refer. The first is that it has been agreed that any assistance we may obtain from the International Bank will not be set off against the dollar resources available to us under the new arrangement. In other words imports financed from the International Bank loans will be in addition to the 75 per cent. of the 1948 import level.

The second point relates to hard currency countries other than dollar countries, namely, Belgium, Switzerland, Western Germany, Japan and the Argentine. We have separate trade arrangements with Switzerland, Western Germany and Japan which are not affected by the new agreement. Negotiations for a barter deal with the Argentine are contemplated. As regards Belgium no final arrangements have been reached, but negotiations are proceeding between that country and the United Kingdom in regard to the settlement of payment arrangements between Belgium and the sterling area.

These, Sir, in brief, are the main features of the new Sterling Balance arrangements and I hope that hon. Members will agree that in the circumstances they are satisfactory.

Pandit Lakshmi Kanta Maitra (West Bengal: General): What about Switzerland?

The Honourable Dr. John Matthai: It is a bilateral agreement which is not affected by this.

It is too early yet to say what will be the results of devaluation on our dollar earnings and it would be unwise to attempt to forecast long-range tendencies from present data. But during the four months July to October 1949 for which we have preliminary figures dollar payments have exceeded dollar receipts by only a small margin. It must be remembered, however, that we had completely suspended dollar licensing of imports from the 25th of June 1949 for a period of about two and a half months and we have not so far made any payments against fresh licences for the period July-December 1949 since their issue has been delayed.

In the overall position our sterling assets have declined from Rs. 1,537 crores at the end of June 1948 to Rs. 820 crores at the end of June 1949, a difference of Rs. 717 crores. To this figure is to be added the sterling equivalent of our dollar purchases from the International Monetary Fund amounting approximately to Rs. 19 crores, giving a total decline during the period of Rs. 736 crores. This heavy outgo is due to a number of causes.

The first is the payment to the United Kingdom Government in accordance with the agreement reached with them in July 1948 of Rs. 296 crores for the purchase of annuities for financing the payment of sterling pensions and the acquisition of defence installations and stores left behind in India by the United

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Kingdom at the end of the war. The second is the payment of about Rs. 187 crores to the State Bank of Pakistan as Pakistan's share of these balances following the separation of its currency from that of India. The third factor is India's adverse balance of payments which has amounted to about Rs. 250 crores, of which may I add payments for purchase of food from abroad have accounted for Rs. 126 crores (Rs. 42 crores from Dollar areas and Rs. 84 crores from other areas).

It is clearly not possible for us to continue to sustain a deficit of this order and after the 1949 Agreement, we framed a foreign exchange by which to cater for a deficit of approximately Rs. 130 crores which corresponds to the £100 million release negotiated with the United Kingdom for the period. We estimated at that time total payments of Rs. 600 crores excluding, of course, payments for imports for schemes financed by the International Bank. These Rs. 600 crores comprise roughly Rs. 100 crores for food, Rs. 100 crores for Government imports and Rs. 400 crores for commercial imports and invisible payments. Against this, our export and invisible earnings were estimated at about Rs. 490 crores, leaving a deficit thus of Rs. 110 crores. To this is to be added Rs. 20 crores payable to Pakistan in current sterling on account of our adverse balance of payments with that country. The total deficit thus came to Rs. 130 crores.

In the light of the devaluation of the rupee, however, new estimates will have to be framed and these are under preparation. One clear fact emerges—if we cannot increase the value of our exports at least to offset to the extent of devaluation, to that extent imports will have to be reduced, for, the limit of our overall deficit is inexorably fixed at the figure of £50 millions to which is to be added for the current year only the amount on account of special licensing under the old Open General Licence.

Sir, there is one point more to which I would like to refer regarding our sterling balances. Hon. Members will no doubt have been perturbed over the recent discussions in the British Parliament on the sterling balances. When the Prime Minister of Britain and the Chancellor of the Exchequer indicated the possibility of our utilisation of these balances being restricted in future I asked our High Commissioner in London to express our concern at such unilateral statements of policy in matters which were recently the subject of bilateral negotiations. I also asked him to find out exactly what were their intentions in the matter. I am in a position to inform the House that I have received what I consider to be satisfactory assurances. I am assured that there is no intention to take any unilateral action, that the agreement recently negotiated is not affected, that there is no question of any scaling down of the balances and that there is no intention to take any unfair advantage of India.

The House may rest assured that, as in the past, we shall continue to watch the matter with vigilance and shall not hesitate to take such action as may be necessary to safeguard our position.

Sir, I will now pass to a survey of the Loan Agreement with the International Bank.

The House will recall that on the first February this year, I referred to the transactions which the Government of India had entered into with the International Monetary Fund and the International Bank for Reconstruction and Development and I indicated that a Mission from the International Bank had recently arrived in India and was engaged in a general study of conditions obtaining in the country and was examining certain projects with a view to ascertaining whether they were suitable for financing by the Bank. I said at that time that it was not possible to give any indication either of the amounts for which we might ultimately apply for a loan or the terms and conditions on which the

loan might be granted. I mentioned, however, that projects relating to the Railways, Agriculture and Hydro-electric schemes were under examination by the Bank in consultation with the Government of India. On the return of the Mission to the United States in April, a detailed report was submitted to the Board of the Executive Directors of the Bank. This was a confidential report, but naturally, India's executive Director and the Government of India became apprised of the contents. The main purpose of the Mission's visit and of the report was to assess the "creditworthiness" of the country, that is to say, was India a country to which the Bank should lend; could India meet the service charges involved in loan operations; were there projects which had reached such a detailed stage of planning that the only item holding up their implementation was lack of foreign exchange; were there administrative and technical personnel in position or prospect who could adequately supervise and control the execution of the schemes. I am committing no breach of confidence when I tell the House that the general tenor of the report was that India was, in the view of the Mission, "a good risk".

And here I should like to refer to some of the criticism of the alleged contents of the report which appeared in the Press at the time. It was stated that the Mission had criticised certain plans of the Provincial Governments; that they had stated that there was lack of co-operation and co-ordination between the Centre and the Provinces; that there had been a great deal of talking about plans, but that few detailed plans really existed. These reports which appeared in the Press about the contents of the Mission's report were not true. (Hear, hear). What the Mission in effect said was that if India was effectively to utilise loan money from the International Bank for the purpose of reconstructing and developing her economy, it was their view that a strict scheme of priorities would have to be drawn up and that, though many schemes might be desirable in themselves, it would be necessary to concentrate first on those projects which would remove the basic bottlenecks in the country's economy. Therefore they suggested concentration on projects relating to increased food production and the overcoming of transport difficulties.

These suggestions, in fact, fitted in broadly with the Government of India's own views. After the contents of the report were known, Government decided to submit a formal application to the Bank. This was done last July.

And at this stage, I would like to refer to the various suggestions which have been made that India asked for \$300 or \$350 million and that she has not received all that she asked for, and that the Bank has not been as sympathetic as it should have been. Hon. Members will appreciate that our ability to borrow from the International Bank is limited by our capacity to meet each year the service charges on the loans. We have, therefore, to make an assessment of our ability to find the dollars for these charges. In doing this, we have to keep in mind our other dollar commitments such as our liability to repay \$100 million we have borrowed from the International Monetary Fund, the necessity, although for a strictly limited period, to import foodgrains, and a certain basic minimum of capital equipment from the United States in order to maintain our industrial production and, at the same time to proceed as rapidly and as rationally as possible with our development plans. This assessment of our ability to service foreign loans is not by any means an easy task, for it depends upon a number of factors which are not always capable of exact and certain appreciation. Further, the calculations which were made earlier have been upset by devaluation. Another point to be borne in mind is that the Bank does not give what are known as "balance of payments" loans. That is to say, if our current balance of payment position with the dollar areas is adverse, we cannot finance the deficit by borrowing from the Bank. For such finance, we must approach the International Monetary Fund, and altogether up to date we have now borrowed \$100 million from that institution. Clearly, we cannot go

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on borrowing indefinitely for current purposes from the International Monetary Fund since the interest charges become prohibitive in the third, fourth and fifth years.

Loans from the International Bank, on the other hand, are granted for specific projects and the proceeds of such loans can only be used for approved schemes. This, indeed, is one of the terms embodied in the Agreements. This inevitably means that our projects must have been fully developed and planned, for we must be able to tell the Bank that we desire to purchase particular capital equipment for a particular project and that the only thing which prevents our carrying out the execution of the scheme is the lack of dollar finance to purchase the capital equipment. Now it takes a very great deal of time to work out plans in such detail, and indeed some of the schemes for which we now think that we may require dollar finance have by no means reached that stage of planning. When, therefore, we put in our formal application to the International Bank, we did not ask for \$300 or \$350 million but requested that the Bank would examine schemes of which the dollar content could then be only roughly estimated. These schemes were broadly, the purchase of railway equipment, including locomotives; plans for increasing food production by the reclamation of weed-infested land and virgin jungle; hydro-electric projects and the erection of steel plants. We said that we had made preliminary estimates of the dollar elements of these plans, but since the supply position changed from day to day, these estimates could not be regarded as final. We asked that the Bank would take them up one by one, examine them and see how they could help us. And this, in fact, is what is happening. Each project is being examined not only from the narrow point of view as to how much dollar finance is involved but also from the wider angle as to how best it will help us to overcome our basic shortages whether of food, or transport or steel or electrical energy. Hon. Members will appreciate that these processes necessarily involve time, but I am glad to say that we have received every co-operation from the Bank which has been most sympathetic in their discussions with our Loan Negotiator and we feel certain that we shall continue to receive their support. Indeed, the President of the Bank declared not long ago in an address to the New York Savings Association that he considered loans to India "risks worth while taking" and he was confident that the Bank would be able to extend further assistance.

Before I turn to discuss the details of the two loans already negotiated, I would like to deal with a point, to which considerable attention has been directed, viz., the rates of interest charged by the Bank. As hon. Members are aware, the capital of the Bank is subscribed by the member countries. Thus India's share of the capital is \$400 million, but all of this has not yet been called up. Only 20 per cent. has so far been paid. It is this 20 per cent. subscription of all the member countries which forms the working funds of the Bank out of which loans are granted. Of this 20 per cent., each country has paid 2 per cent. in gold or dollars and the rest in their own domestic currency. Thus, when the Bank formally started its operations in 1946, its total available cash resources in dollars consisted of these contributions and amounted to approximately \$725 million. By July 1947, the Bank had already granted loans totalling \$250 million, and negotiations were far advanced for another loan. Further, applications had been received from other member countries for loans totalling nearly \$1,500 million.

The Bank therefore considered it necessary to increase its resources and floated two issues of bonds aggregating \$250 million on the New York market. The first issue was at 2½ per cent. and the second at 3 per cent. It is this money which the Bank is now lending to member countries, for it has utilised all the \$725 million made available by the initial subscriptions. It is therefore the rates at which the Bank can borrow funds whether short, medium or long-term

that conditions the rate at which it can lend to member countries. In addition to these basic rates, the Articles of Agreement lay down that the Bank shall charge a 1 per cent. commission. This is a statutory obligation and the amounts received on this account go towards building up a reserve fund. This contribution may therefore be looked upon as a kind of compulsory saving by member countries.

Pandit Lakshmi Kanta Maitra: Does it go to a sinking fund?

The Honourable Dr. John Matthai: To a reserve fund, for the money is not spent and, if the Bank were to cease to operate, the amount would be available for distribution among member countries. At the end of March 1949, there was nearly \$7 million in this fund. The Bank also generally adds a further ½ per cent. to these two rates in order to cover its working expenses. It will thus be seen that, to arrive at the effective rate of lending by the Bank, 1½ per cent. is to be deducted from the overall rate. There is one more point in this connection to which I would like briefly to refer. Hon. Members will recall that the Bank was originally created because it was felt that, in the postwar years, with political and economic uncertainties in so many countries, private capital might not be willing to move freely. The prime purpose of the Bank was to create a sense of confidence and pave the way for private investment, for it was realised that the resources available to the Bank could never fully meet the investment needs of the world. To the extent therefore, that the Bank can induce equity investment to flow into a country, to that extent can the demand on its own funds be reduced and those funds be utilised over a wider area. One of the terms of the loans is, therefore, that the Bank can call upon the borrowing country to make available its own bonds for the principal amounts of the loans. The Bank will then sell these bonds on the market, the dollars it thereby receives being utilised for other loan operations. By this process a direct nexus will be created between the borrowing country and the holder of the bond. Thus a public investment by the Bank can be turned into a private investment and it is by operations of this nature that the Bank hopes to create conditions which will be attractive to private investors in member countries.

I will now deal with the terms of the two Agreements already negotiated. The Railway project Loan Agreement is dated the 18th of August, 1949 and is for a sum of \$34 million. Of this sum of \$34 million, \$26·7 million will be spent on the purchase of locomotives and boilers and \$7·3 million on the purchase of spare parts. The equipment to be purchased with this loan money forms part of the total equipment needed for the rehabilitation of the railways and will make available 418 new American and Canadian locomotives out of a total of 863 locomotives ordered in the U.K., France, U.S.A. and Canada. The Government of India at first proposed to borrow a larger sum than \$34 million but, since considerable amounts had already been paid by the time the Agreement was negotiated, it was considered advisable not to ask for reimbursement of the sums already expended, but to take the \$34 million which represented payments to be made after the 1st of July, 1949. This decision, in effect, meant that further loan money would be available for other projects. The loan is for a period of 15 years and bears interest at the rate of 4 per cent. Repayment of principal, interest and commission is to be made in semi-annual instalments of approximately \$1·5 million on the 15th of February and 15th of August each year; but there is half a year's period of grace on the principal only, the first instalment on this account being due on the 15th of August, 1950. The total amount of interest and commission that will be payable on the loan is \$11·82 million.

The second loan which was signed on the 29th of September, 1949, is for a sum of \$10 million for the purchase of agricultural machinery. When the Government of India first considered approaching the Bank for a loan on this

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account, it was calculated that the dollar element would be very much greater, but as availabilities improved in the soft currency areas, it was found possible to limit purchases in the dollar areas to \$10 million. The machinery to be purchased with the loan will be used on two projects—the reclamation of the *Kans* weed infested lands in the U.P., C.P., Madhya Bharat and Bhopal and for the reclamation of virgin-jungle lands in the United Provinces. The total amount of *Kans* infested lands in these areas....

Sardar Bhopinder Singh Man (East Punjab: Sikh): On a point of clarification Sir, as you have stated to these two projects, will we be entitled to purchase simple tractors or wider range agricultural machinery which will be required incidentally for reclamation and subsequent sowing?

The Honourable Dr. John Matthai: Will the hon. Member kindly wait? If questions could be raised after I had made my statement, I think it would save the time of the House.

The total amount of *Kans* infested lands in these areas is estimated at about 10 million acres and the present scheme relates to approximately 3 million acres. It is proposed to reclaim about 290,000 acres in the first year of operations and 460,000 acres in each of the six following years. It is calculated that, over the 7 years of the scheme, four million tons of extra foodgrains will have become available and that, at the end of that period, there will be a permanent addition of 1 million tons to the foodgrain supplies of the country.

The machinery to be purchased for this part of the project consists of 345 heavy tractors, ancillary equipment such as land clearing blades, special tools for serving and spare parts, costing approximately \$8.75 million.

The second part of the project consists of clearing about 100,000 acres of virgin jungle land in the U.P. Work of this type has already been carried out with reconditioned surplus army machinery and has given excellent results. It is now proposed to proceed with the scheme with thirty new heavy tractors and the necessary ancillary equipment. The cost of these will be approximately \$1.25 million.

This loan of \$10 million is for a period of 7 years and carries a rate of interest and commission of $3\frac{1}{2}$ per cent., payable semi-annually. There is a two-year period of grace in the principal, which is repayable in 10 equal semi-annual instalments. Thus, for 1950-51, the annual amount payable to the Bank will be \$350,000 and from 1952-56 sums varying from a maximum of \$2.3 million in the former year to \$2 million in the latter year. The total amount of interest and commission that will be payable on the loan is \$1.6 million.

Thus in order to service the two loans already negotiated, it will be necessary to find a minimum of \$3.5 million in 1950-51 and a maximum of \$5.2 million in 1955-56.

A third loan is under negotiation for the Bokaro Thermal Unit of the Damodar Valley Project. It is not yet possible to indicate the final figure of the amount of the loan but it is expected to be in the neighbourhood of \$22 million. It is hoped that the negotiations may be completed by the end of the current calendar year. Assuming that the amount is \$22 million; that the period of the loan is 25 years and that the rate of interest is $4\frac{1}{2}$ per cent., the yearly payments due to the Bank would be a minimum of \$0.9 million in 1950-51 and a maximum of \$1.7 million in 1955-56 which will continue upto 1974-75.

We can now have an idea of the extent of the total service charges which will be involved in these three loans totalling approximately \$66 million. They

will rise from a minimum of \$4.4 million in 1950-51 to a maximum of \$7 million in 1955-56. As I mentioned before, we shall also have to make provision for the interest payments on the \$100 million which we have purchased from the I.M.F. These payments will be of the order of approximately \$:7 million in 1950; \$ 06 million in 1951; \$1.42 in 1952; \$1.75 million in 1953 and onwards, assuming that we make no further purchases during these years. While it must be our endeavour to repay this \$100 million as soon as possible, in order to reduce interest charges, we feel that this is a matter which must be dealt with on a sterling area basis as a whole and not by India individually. But were we to make provision for repayment of even a modest sum of \$10 million per year over the next ten years, our total commitments on account of borrowings from the Fund and the Bank would rise from a minimum of about \$15 million in 1950 to a maximum of about \$19 million in 1956.

Hon. Members will thus appreciate that the problem which faces us, in these uncertain times, of raising this surplus in the dollar sector of our economy is not an easy one and that our present commitments place inexorable limits on our ability to take on further liabilities.

Yet, if our plans of reconstruction and development are to proceed at the necessary pace further investment of foreign capital, either public or private, is essential. It is our main endeavour to create conditions which will be attractive to foreign private investors, for equity investment lightens the burdens of annual service charges. Until the flow of that capital is stimulated, it will be our policy, consistent with our internal and external financial resources, to seek further assistance from such international bodies as the World Bank. We feel that, with the signing of the three loan agreements, the first stage of our operations will have been completed. The Bank is examining further schemes relating to steel plants and multi-purpose projects and we expect that early in the New Year a small Mission will visit India when we shall be able to discuss in more detail our future plan of operations.

I trust that what I have said will have enabled hon. Members more fully to appreciate the policies and processes of the Bank. The negotiations must necessarily be somewhat protracted; but, personally, I would not consider this a disadvantage, for it ensures that our projects are fully examined and explored and that they pass the test of expert scrutiny. The fact that the Bank is willing to finance a project may be taken as setting a hallmark on its quality, and once private investors abroad come to know that our economy and plans are sound, we may hope for a freer flow of equity investment into the country.

These agreements with the Bank are the first foreign loan operations which India has entered upon since we became independent and this is the first occasion in our history when we have raised loans in the U.S.A. The significance of these operations is not, therefore, to be judged with reference to the amounts which we have so far borrowed, or may borrow in the future. Their true significance is that we have now established our independent position in the world of international finance and we have laid foundations on which we can build, surely and realistically, the development of our country with external financial assistance.

Mr. Speaker: There are two motions and I will place both of them before the House. Motions moved:

"That the Sterling Balances Agreement of July, 1949, entered into with the United Kingdom Government be taken into consideration."

"That the policy of the Government of India in entering into negotiations with the International Bank for Reconstruction and Development for loans for financing reconstruction and development projects in India, and the Agreements concluded so far be taken into consideration."

[Mr. Speaker]

The discussion will be common to both the motions. There are a number of amendments. I should like to be clear as to which amendments are going to be moved and which not. After the amendments are moved, the House can discuss the whole matter including the original motions and the amendments, which will be formally in the possession of the House.

(Amendments to motion re Sterling Balances Agreement.)

Prof. Shibban Lal Saksena (U.P.: General): Sir, I move:

"That for the original motion, the following be substituted, namely:

"That the policy of the Government of India with regard to the negotiations with respect to the sterling balances with the British Government and the agreements concluded so far be taken into consideration."

Mr. Speaker: This amendment seems to be more or less verbal.

Prof. Shibban Lal Saksena: I wanted to extend the scope of the discussion. The original motion restricts the discussion to the 1949 agreement but I want the entire policy to be discussed.

Mr. Speaker: When the agreements are under discussion, certainly you cannot discuss merely the wording of the agreements. The discussion of the entire policy is covered even in the original motion as it stands. I should like to know from the hon. Finance Minister if that is correct.

The Honourable Dr. John Matthai: I was not able to understand any distinction between the hon. Member's motion and the motion before the House.

Mr. Speaker: That is what I am pointing out to him. What he wants is a discussion of the entire policy and that is permissible under the motion as made by the hon. Finance Minister.

Prof. Shibban Lal Saksena: In that case I do not want to press my amendment.

Mr. Speaker: I shall not put it to the House.

Shri Ajit Prasad Jain (U.P.: General): Sir, I move:

"That for the original motion, the following be substituted, namely:

"This House is in agreement with the action of the Government of India in entering into the Sterling Balances Agreement of July 1949 with the United Kingdom Government."

Mr. Speaker: Amendment moved:

"That for the original motion, the following be substituted, namely:

"This House is in agreement with the action of the Government of India in entering into the Sterling Balances Agreement of July 1949 with the United Kingdom Government."

Shri M. Tirumala Rao (Madras: General): On a point of information, Sir, does the Finance Minister ask for the approval of the House for this agreement? It is an agreement which was concluded in July 1949, nearly six months ago. Is there any force in having the approval of this House at this stage?

Mr. Speaker: The motion is quite in order. The motion says that the agreement be taken into consideration. It is perfectly competent for the House to examine the policy and endorse it or rectify it.

Shri M. Tirumala Rao: It is only a suggestion but it is not for the vote of the House.

Mr. Speaker: It is for the vote of the House. The motions will be put to the House and if the House accepts them it means that the House endorses the policy.

Mr. Naziruddin Ahmad (West Bengal: Muslim): I do not know whether there is essentially no difference between the original motion and the amendment. If the House takes the motion into consideration, it is by implication accepting the agreement.

Mr. Speaker: I think there is some difference.

Mr. Naziruddin Ahmad: Verbally different but not substantially different.

Mr. Speaker: The motion need not be talked out by taking it into consideration. The House comes to a conclusion. That is a substantial difference.

Shri B. P. Jhunjhunwala (Bihar: General): Sir, I move:

"That for the original motion, the following be substituted, namely:

"That having regard to the effect of devaluation of sterling and rupee, the Sterling Balances Agreement of July 1949 entered into with the United Kingdom Government be reviewed."

Mr. Speaker: Amendment moved:

"That for the original motion, the following be substituted, namely:

"That having regard to the effect of devaluation of sterling and rupee, the Sterling Balances Agreement of July 1949 entered into with the United Kingdom Government be reviewed."

Mr. Arun Chandra Guha's Amendment is practically the same, though the wording is different. However, if he wants to move it he may do so.

Shri Arun Chandra Guha (West Bengal: General): Sir, I move:

"That in the motion, for the words 'be taken into consideration' the words 'be reconsidered in the light of the situation created by the devaluation of sterling and of rupee in terms of gold' be substituted."

Mr. Speaker: Amendment moved:

"That in the motion, for the words 'be taken into consideration' the words 'be reconsidered in the light of the situation created by the devaluation of sterling and of rupee in terms of gold' be substituted."

With regard to the amendment of Prof. K. T. Shah, I may point out to the hon. Member that his amendment is argumentative and, if he accepts, I would suggest to him that he may delete sub-paragraphs (i), (ii) and (iii). They are more or less arguments in support of his proposition, the words beginning from 'inasmuch as' to 'by the British Government'. When he says 'that the releases...are utterly insufficient' that is one reason; the second reason is 'that no provision has been made against any depreciation...'; and the third reason is 'that no effective and adequate guarantees have been taken...'. These are all arguments in support of what he is stating. They may better be advanced by him during his speech and may not form part of the amendment itself.

Consequently the words 'noted above' in line 5 from the end of his amendment will also have to be deleted.

Prof. K. T. Shah (Bihar: General): I shall move the amendment as suggested by you. Sir, I move:

"That at the end of the motion the following be added, namely:

"and that, having considered the Agreement of July, 1949, this Assembly is of the opinion that that Agreement does not safeguard, adequately and effectively the interests of India in this matter of utilising her accumulated sterling balances,

and further that before the Agreement is approved by this Assembly, this Assembly do appoint a Committee of this House consisting of the Honourable Dr. John Matthai, the Honourable Shri K. C. Neogy, Shri M. Ananthasayanam Ayyangar,

[Prof. K. T. Shah]

Shri H. V. Kamath, Shri R. K. Sidhva, Sardar Hukam Singh, Shri Lakshminarayan Sahu, Shri B. P. Jhunjhunwala, Shri Mahavir Tyagi, Shri B. Das and the Mover to review the history of these Balances, examine their origin, nature, purpose and use with special reference to the actual economic situation in India and to advise the House as to the amendments necessary in the Agreement so as to remedy their shortcomings, with instructions to report by the 10th December 1949 and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Mr. Speaker: Amendment moved:

"That at the end of the motion the following be added, namely:

'and that, having considered the Agreement of July, 1949, this Assembly is of the opinion that that Agreement does not safeguard, adequately and effectively the interests of India in this matter of utilising her accumulated sterling balances,

and further that before the Agreement is approved by this Assembly, this Assembly do appoint a Committee of this House consisting of the Honourable Dr. John Matthai, the Honourable Shri K. C. Neogy, Shri M. Ananthasayanam Ayyangar, Shri H. V. Kamath, Shri R. K. Sidhva, Sardar Hukam Singh, Shri Lakshminarayan Sahu, Shri B. P. Jhunjhunwala, Shri Mahavir Tyagi, Shri B. Das and the Mover to review the history of these Balances, examine their origin, nature, purpose and use with special reference to the actual economic situation in India and to advise the House as to the amendments necessary in the Agreement so as to remedy their shortcomings, with instructions to report by the 10th December 1949 and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

(Amendments to motion re Loan Agreements.)

Shri Ajit Prasad Jain: Sir, I move:

"That for the original motion, the following be substituted, namely:

'This House is in agreement with the policy of the Government of India in entering into negotiations with the International Bank for Reconstruction and Development for loans for financing reconstruction and development projects in India and with the agreements so far concluded.'

Mr. Speaker: Amendment moved:

"That for the original motion, the following be substituted, namely:

'This House is in agreement with the policy of the Government of India in entering into negotiations with the International Bank for Reconstruction and Development for loans for financing reconstruction and development projects in India and with the agreements so far concluded.'

Dr. P. S. Deshmukh (C.P. and Berar: General): Sir, I move:

"That in the motion, for the words 'be taken into consideration', the following be substituted, namely:

'be approved but the Agreements be modified so as to expend not more than a third of the loans on manufactured goods and the rest on setting up factories in India for manufacturing these goods.'

Mr. Speaker: Amendment moved:

"That in the motion, for the words 'be taken into consideration', the following be substituted, namely:

'be approved but the Agreements be modified so as to expend not more than a third of the loans on manufactured goods and the rest on setting up factories in India for manufacturing these goods.'

Prof. K. T. Shah: Sir, I beg to move:

"That at the end of the motion, the following be added, namely:

'and that having considered this policy as expressed in these negotiations, this Assembly is of the opinion that the policy of the Government of India in this regard does not envisage any co-ordinated and comprehensive plan of national development in all sectors of the country's economy and accordingly considers that the loans sought are likely to be used not to promote a well-considered,

all-round programme of economic development spread over a number of years, but to meet *ad hoc* requirements of the present emergency or to promote specific projects already in hand or likely soon to be taken in hand and accordingly does not approve of this policy."

Mr. Speaker: Amendment moved:

"That at the end of the motion, the following be added, namely:

'and that having considered this policy as expressed in these negotiations, this Assembly is of the opinion that the policy of the Government of India in this regard does not envisage any co-ordinated and comprehensive plan of national development in all sectors of the country's economy and accordingly considers that the loans sought are likely to be used not to promote a well-considered, all-round programme of economic development spread over a number of years, but to meet *ad hoc* requirements of the present emergency or to promote specific projects already in hand or likely soon to be taken in hand and accordingly does not approve of this policy.'

Shri R. K. Sidhva (C.P. and Berar: General): The hon. Minister referred in his speech to the steel plants and stated that a Mission is expected early next year. May I know whether it refers to the steel plant contemplated by the Government or whether it refers to private enterprise in this regard?

The Honourable Dr. John Matthai: That is one of the proposals in connection with it.

Shri R. K. Sidhva: Am I to understand that the Government have dropped the idea of investing their own money?

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

The Honourable Dr. John Matthai: The position is really this. It all depends on how far the capital required for this project could be secured from private investment and whether it could be secured from State resources. Till this question is finally clarified it would not be possible for the Government to reach a decision as to whether it is to be put on a State basis or a private basis or a mixed basis.

Sardar Bhopinder Singh Man: Before we proceed with the consideration of these two motions I would like the Finance Minister to clear an ambiguity which has crept in so far as the second loan is concerned. May I know whether he has entered into an agreement to purchase nothing but heavy tractors or whether the agreement permits us to purchase any agricultural machinery or any machinery which is related to the agricultural projects that we are having in hand?

The Honourable Dr. John Matthai: Yes, it is for the purchase of dollar machinery suitable to the particular projects which have been examined and approved of by the Bank.

Sardar Bhopinder Singh Man: You have definitely entered into an agreement that we will be purchasing tractors for reclamation. And that means heavy tractors only. Are we to confine ourselves only to the purchase of heavy tractors, or can we purchase other agricultural machinery as, for example, in connection with tube-wells, building of drains, etc?

Mr. Deputy-Speaker: The Agreement seems to be clear that no other articles than those entered therein can be purchased, that is, tractors, accessories, etc. and none else.

Shri Ajit Prasad Jain: Sir, I want to put a question.

Mr. Deputy-Speaker: If hon. Members put questions and do not intend to speak, we can exhaust all the questions.

Shri Ajit Prasad Jain: The Minister stated that the Mission of the International Bank which came to India has approved of the development of food production as deserving high priority. One of these agreements relates to purchase of tractors. There has been some news appearing in the Press about tube-well projects and the purchase of fertilizers. Are any such agreements in contemplation or were they ever discussed or negotiated and if so, what has been the fate of those schemes?

The Honourable Dr. John Matthai: No such agreements have been negotiated.

Mr. Naziruddin Ahmad: I want clarification on one point. I want to know whether in obtaining the loan in dollars, on account of the devaluation of the rupee, we would get 30 per cent. less or alternatively whether in repaying these loans we would have to pay 44 per cent. more in terms of Indian money.

The Honourable Dr. John Matthai: The loans are stated in terms of dollars but our payments in respect of servicing of these loans would now have to be made at the new rate.

Shri S. V. Krishnamoorthy Rao (Mysore State): May I know the rate of interest which the Bank has charged to other countries for similar loans?

The Honourable Dr. John Matthai: I am not in a position to give the answer now but the general principle followed is the same.

Shri R. K. Sidhva: Is it not a fact that other countries have been charged 3.5 per cent. for amounts and periods similar to what we have taken?

The Honourable Dr. John Matthai: I could look up the details and tell the hon. Member.

Shri B. Das (Orissa: General): It is an irony of circumstances that the House will simultaneously discuss the position of Sterling Balances, which Mr. Churchill characterised as a *misnomer*, and also the relation of India with that country—U.S.A. So far as the 1949 agreement is concerned, we have followed it up, we have eaten the money, we have accepted the agreement and so I will not make any observation on that position. But what I am deeply concerned about is the subsequent position of our Sterlings—what relation we shall have with the Sterling countries, whether the Sterling Agreements should continue, whether the war Sterling Balances should occur in the future history of India or whether India shall be released from the domination of the United Kingdom in the matter of our Sterling Balances. It has been said that Account II is a bank balance in the Bank of England. Why should we have any kind of relation with the Bank of England or even with the United Kingdom which has all along taken it for granted that it should dominate the economic policy of India? A month and a half remains when we will declare the Republic of India, but this kind of talks, this kind of usurpation of our Balances in a foreign country and domination over their expenditure and also over their convertibility should not be allowed. If I make any observations in the matter of these sterling balances, I wish to draw the attention of the House to the fact that we should wash our hands clean of any kind of cordiality with the U.K. When my honourable friend the Finance Minister observed about Commonwealth relations, Sir, I felt a dagger went into my heart. What is that Commonwealth? What is that relation? I have been a close observer of the speeches which my honourable friend has made during the last two years on the floor of the House. So far, until he made his grand speech on devaluation, he had accepted the position of domination by the U.K. over India's economy, the position which his predecessors, the Finance Member

of the former Government of India, had accepted as *fait accompli*. Today that position does not exist. I want no negotiation with the U.K. We may immediately make a demand on the Bank of England that our deposits should be at the disposal of the Reserve Bank of India which can convert it, which can deposit it anywhere and my Government of India can spend the money in any way it likes.

Shri R. K. Sidhva: Sir, the clock has struck one.

Mr. Deputy-Speaker: The hon. Member evidently would like to continue

Shri B. Das: Yes, Sir.

Mr. Deputy-Speaker: He may continue after Lunch.

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

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

Shri B. Das: Before the recess, I was saying that I accept the 1949 Sterling Balances Agreement as it was and that it is no use crying over spilt milk, but for the future India should have no sterling balances agreement with England. Our money is lying in the Bank of England and we have the free will to draw on it in our own way to suit our national economy. The hon. Dr. John Matthai said that after the devaluation he received some categorical assurance from the British Chancellor of the Exchequer. I never believe in an Englishman's word. I have not found one truthful Englishman. If Sir Stafford Cripps said that the spirit of the Agreement should be carried into the years 1949-50 and 1950-51, I do not believe it. I do not think such an assurance is necessary at all. If Sir Stafford Cripps said that there should be no scaling down or any thought of it, I cannot accept it, because every other Englishman including Churchill and all the Labour gang led by Mr. Attlee have times without number said that there should be scaling down. Of course, my honourable friend the Finance Minister could not discuss the terms of repudiation, but I have the sixth sense of suspicion that England can at any moment perfidiously repudiate the loan on the ground that U. K. has gone bankrupt and cannot honour her debts. The U. K. has been applying two sets of principles: one to Western and American countries and another to countries inhabited by darker people, whether they be India or other colonial countries. The mentality of the U. K. has not changed. I am not going to accept whatever understanding my Government may enter with the British Government. I think it is better that we start with a clean slate and have no more truck with England.

I have said more than once both on the floor of this House and outside that our economy must not be clubbed with the U. K. economy. All our troubles, all our woes and all the present difficulties we are going through as a result of the devaluation of the rupee—all these are due to the U. K. I would very much like my hon. friend the Finance Minister to tell us whether Sir Stafford Cripps has sent him an apology for his exceedingly bad manners in not informing him before the night of 16th September that the sterling was going to be devaluated. If that little sense of gentlemanliness did not dawn upon Sir, Stafford Cripps even to this day, I say, let us cut off, let us have nothing to do with the U.K. economy or the U.K. Finance Minister. Let us rend asunder even our trade and commerce with the U.K.

Shri L. Krishnaswami Bharathi (Madras: General): How shall we get our sterling balances then?

Shri B. Das: Our sterling balances are lying with the Bank of England. The British Government can be a liar and repudiate; but the Bank of England, if it does that, it will crash; and if it crashes, the whole British economy crashes. The Commonwealth countries have huge deposits in the Bank of England and

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you can imagine the consequences. So, I do not want you to mix up the two relationships, namely, the Bank of England and the British Government. The British Government is perfidious, but the Bank of England has still to remain as a Commonwealth Bank. So I hope the Bank of England will honour our deposits, provided they are deposited there. I hope my hon. friend the Finance Minister will assure me whether our sterling balances are deposits in the Bank of England in the name of the Reserve Bank of India and that there are no political complexes to them. That is the crux of the whole problem.

Sjt. Kuladhar Chaliha (Assam: General): What about your over-drawal of £81 millions?

Shri B. Das: Over-draws? Well, my money is held up by Sir Stafford Cripps and he "allowed" my Finance Minister, Dr. John Matthai, to over-draw £81 millions from frozen deposits. Is that over-drawal? If this agreement was entered into by Sir Jeremy Raisman and others, they did it as masters of India. Now the master of India is Dr. John Matthai and he should indicate the terms to Sir Stafford Cripps.

Shri T. T. Krishnamachari (Madras: General): It looks as if Mr. Das is the master of India!

Shri B. Das: If I have got any grain of mastery, I have handed over all my authority to Dr. John Matthai to deal with the U. K. on behalf of India.

I do not wish to cover again the very same grounds which have caused all these serious troubles to us, but when any English parliamentarian, whether it be a leader like Mr. Churchill or a back-bencher, says that England was bled white to save India from Japan or Germany, they must be told point blank that India has been bled white to enable the U.K. and the British Empire to continue up to now.

I need not repeat my argument again. While I am paying four times the value for my food-stuffs, England is paying 1.6 times the pre-war value. That is how I am being fleeced. I do not want to lose my temper again—I have lost my temper over and over again.

Sir, the only point I wish to emphasise on my friends in the House and on the Finance Minister is that we should try to cut asunder completely from the United Kingdom's perfidies and intrigues, whether it is in the matter of finance, in the matter of trade or in the matter of commerce and I do hope the efforts which the Government of India are making in this direction, (as for example the starting of the Locomotive Factory at Chittaranjan) will be successful.

Now, Sir, I come to the other motion which is not so very heart-burning to me, namely loan from the International Monetary Bank. I do welcome and endorse the remarks of my hon. friend the Finance Minister that we should go into the world set up and negotiate loans and should not remain in the old position as was dictated by U. K. in her past glories and greatness.

But one point I wish to make out. I do not want any Marshall Aid or any help from the United States of America. When an international banking organisation was created, it should at least in the early stages, keep the rate of interest at one per cent. or so. The high rate charged by the Bank does not help world rehabilitation. But the white races—the American and the U. K. people—have one economy for the white races and another economy for those who are not white and I would rather have no loans from the International Bank. I do not like this sort of discrimination. I do not like the discrimination of the UNO and the UNRRA; they never helped India; they never wanted rehabilitation of India. Nor do I want any charity—the charity that the United

States bankers rendered to India in a spirit of superiority must not be there. Let there be a banking spirit. But why should banks think of a reserve at the early stage? Let them rehabilitate the world by loans at the early stage for a period of ten or fifteen years and when the world economy is partly restored I am ready to subscribe, if I am alive as a Member of this House, I am ready to subscribe 4 per cent. I do hope that steps will be taken by the hon. the Finance Minister, with the help of his banking experts, to apprise the Bank that such a high rate should not be claimed from India.

As for the purchase of plants and machinery, questions have been asked whether these loans can be applied for the purchase of other kinds of machinery other than agricultural machinery. I do not think that is a point we can raise now. If our negotiators—be it Shri Chintaman Deshmukh, Shri B. Rama Rao or Shri Sundaresan—have negotiated with the concurrence of the Government of India for a particular kind of capital goods, we must be gentlemanly enough to purchase only those goods and not anything else.

I do hope that the hon. the Finance Minister will be able to enlighten this House sometime later at least as to what are the interest charges on loans advanced by the International Bank to different countries and I would like to know whether the American nations have got loans at a cheaper rate than the Western Bloc of nations, because the Western Bloc of nations have become poorer, and also whether India and other colonial countries which have been the exploiting grounds of the white races have not been charged a higher rate of interest.

Sir, I do appreciate the difficulties of the Government of India in negotiating these loans for steel plants and hydro-electric projects. But the decision of the Bank authorities to take each project as it comes and decide does not help India's national economy, because today we are in a frightful position due to the sterling devaluation or the appreciation of the dollar. Our sorrows and miseries are as much to be laid at the door of the United States of America and the United Kingdom. The United States of America has a natural tendency of hoarding up wealth, so that she could appreciate her currency and at the same time give a few dollars here and there for the rehabilitation of the world as charity through the agency of the UNO or UNRRA, or in the shape of loans through the International Bank. The United States of America is morally responsible for the troubles of those countries called the "Sterling Bloc" to which I am ashamed to say India belongs. I do hope the efforts of my hon. friend, Dr. John Matthai, will create a "rupee area", so that we may talk of the "rupee area" and not of the Sterling or Dollar area. That is my hope and dream and I hope it will be achieved at a not very distant future.

Sir, for some time we will have to depend on the international loans. If somehow arrangements could have been made for India to draw 500 million dollars or a thousand million dollars, then we could have planned out our industrial development accordingly. We do not know—somebody asked a question about it—whether the steel plants which we have completely designed will come into operation. We do not want, whether through dollar appreciation or rupee devaluation, to be dependent upon the U.S.A. or the United Kingdom for our requirements. I do not want to buy anything from abroad except capital goods. According to the teachings of our Great Leader and Guru, Mahatma Gandhi, I want to be self-sufficient in India for my food-stuffs and for my machinery. If India wants to buy anything, she will buy only such machinery and plant as are necessary for her industrial advancement.

An Honourable Member: But Gandhiji was against machinery.

Shri B. Das: No. At a later stage, Mahatma Gandhi did declare that he was not opposed to machinery to bring about self-sufficiency in the rural economics of India which we as humble followers have forgotten. (Prof. N. G. Ranga: Hear, hear). My last appeal to my hon. friend the Finance Minister is that he should see that the Government of India has a five-year plan for utilising

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the loans from the International Bank and not fritter away the money on projects that are not suited for our national economy and industrial development.

Prof. K. T. Shah: Ever since these sterling balances came into being, Indian economists have been crying themselves hoarse in warning the powers-that-be and the country regarding their evil tendencies and very likely injurious consequences. Their cries in those days seemed to fall on deaf ears. But even today, it is a great pity, Sir, that the powers-that-be do not seem to have realised fully, not only the evil origin and nature of these balances, but also the harmful consequences implicit, which these are showing today, but which they still fail to recognise in all their fullness. It is said, Sir, that there is none so blind as will not see: and here we have living examples of people who take no warning, year after year,—or is it, six months after six months?—when they make solemn agreements, and find those agreements broken in one way or another, openly or secretly, directly or indirectly.

Sir, the hon. the Finance Minister was emphatic in declaiming the assurances that had been given by the British authorities with regard to the last Agreement he had the misfortune to make regarding the sterling balances. He has told us that they have assured him. I do not know what those assurances are worth. I heard him say, for instance, that there will be no scaling down, overlooking the fact that, by a single act of Devaluation, there has been an effective scaling down by 40 per cent. He does not think that a breach of the assurance or agreement.

He has further told us that there will be no repudiation. I am sure the authorities who have assured him thus did not mean the same thing by repudiation as other mortals do. It was, however, an assertion, a statement in the British Parliament in the course of the Devaluation Debate, reported in Indian papers, I think, towards the end of October last, in which the Chancellor of the Exchequer and the British Prime Minister declared that Britain would not be able to pay her sterling debts, including those due to countries of the sterling area, as and how they had agreed to pay. If since then there has been any change, I am afraid that change requires to be much more clearly and emphatically embodied in a new agreement than that which the agreement hitherto before us effectively provides. But, notwithstanding this, notwithstanding this experience repeated again and again in the life of the last two Finance Ministers—I mean including the present one—there is a touching, there is an almost pathetic faith in the honesty and straight-forwardness of the British amongst our Indian authorities; and they go on making agreements which the British violate almost every six months, in the letter or in the spirit.

I need not remind the House, Sir, as to how these balances first came into being. But I must explain to the House that the figure, even at the maximum, some Rs. 1,700 crores, when the first settlement was reported to have been made, was not all that has been drained from this country in the shape of goods and services for which no real payment has been made, or if made, it is in these so-called sterling balances. In the very first years, at any rate, when the sterling balances began to accumulate, the first payments were made by the so-called repatriation of the Indian sterling debt of about Rs. 500 crores—not the whole of which was justly due and paid to this country—made by means of bits of paper.

When that means was exhausted, amounts to the tune of Rs. 1,000 or 1,200 crores, continued to be accumulated, and were reckoned and passed on as I.O. Us. of the British Government to the Indian Government. The latter issued paper money in this country on the strength of the securities deposited with the Paper Currency Reserve of the Reserve Bank of India. These brought about the consequences of inflation, the benefits or disadvantages of which we are still suffering from. The inflation that has come in the last 8 years is, in

my opinion, entirely due in its origin to these sterling balances, against which no definite steps were taken. Such steps, I should think, should have been taken from the time they were brought into existence. (*Maulana Hasrat Mohani:* Hear, hear). But even the present Government of India has not cared to take any steps yet.

Sir, the sterling balances have a history of their own, not only in their creation, but also in the steps taken towards their settlements. These settlements were, in the first instance, temporary, supposed to be made for six months. Twice I think they were made for six months; then for a year, and then the last for three years, some part of which also needed review after a year. In all these settlements, though willing to give the best interpretation possible to them, I find nowhere any clear enunciation of two very important principles. The first, which, I should have thought ought to have been included. These are: a categorical assumption of the obligation by the Government of Britain to accept these as due from them to us; and, secondly, an equally categorical assurance on the Indian side, to say that these are our monies, to be used by us, as and when and where and how we like, and that it is none of the business of Britain or any other member of the sterling areas to say how much we could use, where we could use, and in what manner we could use. Therefore, so long as these two principles are not embodied in unmistakable and unambiguous terms in any agreement that is made in regard to the sterling balances, I for one would feel that these agreements are not worth the paper on which they are written. These agreements might hoodwink you and give you a kind of hallucination of eventual fulfilment. But so far as actual facts go—and the results have been realised by some of us—these agreements do not amount to much.

Sir, take these settlements now in their several aspects and provisions. In the first place, you have two main divisions of the amounts that can be released from year to year: one is for use in sterling areas, and the other for multilateral purposes, *e.g.*, convertible into dollars. As I have said just now, there is no reason why this should be a part of the agreement that only a limited amount would be available for multilateral purposes or convertible. The money is ours but the Agreement allows only a small amount to be used; how can then we call it ours? If the British Commonwealth, that means for all practical purposes the United Kingdom, is in difficulties, why should we be called upon to share those difficulties, and to readjust our economy to suit their interests and conveniences? This has happened under the last agreement. It must be admitted that we have had to reduce our imports from the Dollar areas to something like 75 per cent. of the 1948 level, mainly or entirely to suit the convenience of Britain who is unable to meet her own obligations, and, for that reason, is forced to devalue her own pound sterling.

This, Sir, is an aspect of the matter which, I am afraid, has not been appreciated as fully as it deserves to be by those who concluded these agreements hitherto on our behalf. Consider the conditions of our trade. The

greater need of this country is from sources where the dollar currency prevails; and if we have perforce to divert our trade so as to go into non-dollar or "soft" currency areas merely to accommodate

Britain as it were to maintain her present economy, the reaction would be not only on that year's trade, but also on the permanent economy of this country. That is to say, we should be obliged so to divert the direction of our trade, so to arrange our purchases and sales, so to manipulate our imports and exports as to be more and more buying from Britain and trying to sell more and more to the hard currency areas so as to minister to the needs of Britain rather than our own.

This is a very distorted view from the point of view of India and so long as that outlook inspires agreements on this matter, I am afraid the interests of India will not be properly served by any such agreements. Sir, I contend that the fact that this money is ours is not yet recognised by the authors of these

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agreements on the other side, and more particularly and painfully on our side even. Because the releases have not been enough, because they have not been adequate for our needs, we have had to over-draw. Here, again, we are blamed as if the open general licence system has been a calamity, that we should not have done so; but having done that, we must cry *mea culpa*; we must expiate in such a manner that we must retrace our steps and readjust things according to the requirements of the British economy.

In this connection, we must never forget that the British economy is unquestionably now a bankrupt economy. It is impossible for them to meet their obligations, and in one form or another they are refusing to meet their obligations. They have refused to pay their war debts, to America of the First World War. They are refusing now to meet their obligations in this modern and fashionable method of unilaterally "devaluing" their currency; and our balances inevitably suffer. After all, the balances are kept in sterling and they are kept in London. They are expressed in terms of the pound sterling, and therefore it rests with the British Government to say as to what will be the purchasing power of that sterling if and when it is paid. We are helpless victims of their spendthriftness, extravagance or indifference to all requirements but their own. So long as they have the upper hand, the whip hand, this attitude from the point of view of the British statesmen is understandable.

From the point of view of the Indian statesmen it is deplorable. It is a great, an immense pity that they should not have perceived this foul play the British were playing. If you refer to the statement of the hon. the Finance Minister at the time of the devaluation debate, you will find that he told the House, in no mistakable terms, that they were not consulted at all in regard to the final step of devaluation by the British statesmen negotiating in Washington. If they were not told, if they were not informed, if they were not consulted, what was the necessity for them to agree to this farce, involving us in all the calamities that have followed Devaluation? We shall be obliged now to curtail many a useful project. We shall be obliged so to readjust our national economy as to subserve not our interests, meet not our own requirements, but to provide for British extravagance, to maintain the British high standard of living, the British dominance in the world markets.

Sir, against all this no assurance has been given that there shall be no further reduction of this amount in terms of its purchasing power in the world markets. It may be that the amount may be paid as stipulated, but the actual purchasing power—which is what really matters, is the thing that matters. No assurance has been taken, no guarantee has been provided in the Agreement that there shall be no further reduction in the purchasing power of this balance in one form or another. That being so, I say that this Agreement is mischievous, is fatal in its very essence inasmuch as no guarantee has been given, no provision has been made, at least so far as the future is concerned, to guard against further depreciation of India's accumulated sterling balances, built up by the sweat and toil of the poorest peasantry in the world, so as to minister to the British high standard of living and their political and military might in the world.

I am afraid, Sir, this is a subject on which passions may turn very high, and I am not going to play to the gallery as the saying goes, in this regard. But I cannot help saying that, after the accumulated and repeated experience that we have not only in the last ten years but over nearly a century of British rule in this country during which we have found out that everything was done only in their own interests, in spite of that experience, even today we have not yet cared to enforce the guarantees which are at our disposal. We told the Finance Member when the Agreement of 1948 was entered into, that if the British failed to meet their obligations in full, then these should be utilised by us.

Instead of doing that, instead of using these as securities for raising loans elsewhere, we are going to the International Bank for loans for certain specific projects, after the International Bank makes an investigation of our credit position. The very question of a nation's credit-worthiness being enquired into by an outsider, being certified by an outsider, is revolting. Instead of doing this, we could have utilised our own resources. If Britain refuses to pay, then we could have utilised the British investments in this country as so much security to raise loans elsewhere. If we have not done that, it is not because there are no British investments in this country for us to use and safeguard our interests in the matter of the sterling balances.

This was already brought to the notice of the then authorities, and the present authorities could not be unaware of that fact. We are told that the Reserve Bank is making an investigation as regards the British investments in this country. I am not prepared to give just now any *ad hoc* figure as regards that investment. But I am certain that those investments are sufficient at any rate for us to use as a good security for a very considerable slice of the amount that Britain owes to us.

I think that these are enough to see that Britain does not repudiate her obligations. I am sorry to say, Sir, that notwithstanding this having been brought to the notice of the authorities, notwithstanding this having been repeatedly emphasised, the authorities have turned a deaf ear. I am not surprised that in the past the foreign authorities did so, but I regret to see that Indian authorities do not seem to have learnt the lesson which is staring us in the face. The writing is written large on the wall, and if they will not see, if they will not read, they will have to regret when it is perhaps too late to mend matters.

Sir, look at the consequences that have fallen upon us because of this agreement. We are becoming tied down more and more to the British economy and we are obliged willy-nilly to accept British requirements of international trade, international credit and international fiscal policy. It suits them to see to it that imports into India are taken as much as possible from the sterling areas, that is, mainly Britain; it suits them also to see exports go to them as far as the raw materials they can manufacture and send back to us in the shape of imports. If we are to eschew more economic markets, those which will be able to supply machinery or capital goods, let us say of greater efficiency, of greater productivity, even if at nominally higher rates, if you like, but greater durability, because Britain is not in a position to release sterling; and if we can purchase in this way the whole of our economy in the long run becomes too much tied up with the British economy. We shall be obliged to run, so to say, in a deficit budget, not only as regards the Central Government of India, but as regards the country as a whole. The Central Government's budget is only a reflection of the entire national economy.

Here, Sir, is a condition in which the national deficit is becoming chronic and larger every year, so that we are living more and more as it were on our past, and not only the psychological or traditional sense but also in our material sense. If that goes on, the generations to come hereafter will be more poor than they were before; and the blessings of Swaraj may not be felt, may not be realized by the people of India which they have every right to expect. I have heard time and again the strongest of fighters for Swaraj and Independence expressing, in whispers no doubt, and with much regret, a feeling that they are missing even the British and the British efficiency in administration. I do tell you, Sir, I am sorry to hear such things from those who have given every proof of their genuineness and of their sincerity in the fight for Swaraj. But they feel the contrast and these things go so deep into the heart of the people that those who today snap their fingers at Jeremiahs like me will have to regret that it is time to listen, to take stock of the situation and mend their manners.

Shri B. Das: We do not take you as a Jeremiah.

Prof. K. T. Shah: Thank you, whatever you take me to be, there are quarters who would regard me as such. And, therefore, do not think this remark was addressed to you, but to those who take me in that light. However, whether they take me as a Jeremiah or otherwise, let me say this that the agreement is vitiated at its source; it is unlikely to be of any benefit to this country; it is fraught with dangers of further one-sided and deliberate depreciation; it is fraught with the danger of tying our economy to the chariot-wheels of Britain. And if it is not revised, if it is not recast and improved in time,—If it is to be improved at all,—I am afraid what remains even may be lost altogether. After all British Statesmen have not been wanting who have said that they would review, and reconsider it, with a view even to total extinction of the whole of this obligation. The present Government even if they give an assurance can only bind themselves. They cannot bind their successors; and those successors or likely successors or potential successors, have made no secret of the fact that they do not consider this to be obligations which Britain can any longer bear. It is time, therefore for our Government to take heed. Let them realize, in whatever way is open to them, the Balances still surviving; let them take counsel amongst themselves, or with those who can effectively advise them, and mend their ways accordingly.

Sir, I now pass on to the other motion of the hon. the Finance Minister with regard to the Loan from the International Bank. I have already referred to that aspect which to my mind is the most injurious and offensive to our sense of national dignity, the aspect of an outside body pronouncing upon the credit-worthiness of this country, of an outside authority certifying that we are worth loaning to. And our Finance Minister takes pride as it were that we have passed the examination of a foreign body, and have proved ourselves good boys in their eyes; and forgetting the reward of their good boy-ness, namely this loan. I consider it as a matter of shame (*Some hon. Members:* No, no). I consider it is utterly unnecessary. After all what is the total amount of the loan that they seem to have obtained from the International Bank. The total including that which we have been negotiating for is \$66 million. Even at the present rate of exchange it would be about Rs. 32 or 33 crores; and this amount needed for productive purposes can it not be raised in this country? I refuse to believe that we are obliged to go to an outside authority for proving our credit-worthiness and getting this loan, when in our own country we could get at the same rate of interest or even a higher rate of interest and the same amount and to better purposes.

I mention this with regard to the utility of the service of these tractors, the heavy tractors and the way they will work in this country. And what is more, I am afraid I am bound to tell this House, that even if these tractors prove as serviceable as they are stated to be, let me tell you, Sir, that for these tractors in respect of every part, in every screw, in every nut, you will have to go to get service and supplies from outside; you will have to use outside petrol; you will have to procure all their parts, get all their accessories from outside. And all that, too, not for the time being that you pay for the tractor but for ever and ever as long as you use them. Until you have your own industry of that kind, you will have to depend on them.

It is a dangerous and double-edged weapon to have these things paid and at such a cost to our country from outside. I cannot regard it, therefore as an unqualified good for this country that we have used this loan in getting these engines or in getting these tractors from wherever they are got. Incidentally I may refer to a point that may not have come to the attention of the Ministers responsible for the matter—a circumstance that has come under my personal notice. A complaint has been made about these new engines which are supposed to be too strong or too fast for the present condition of the rolling stock they drag. I myself have experienced an occasion when an Engine of the Frontier Mail broke down, in the middle of the way, a new modern Canadian Engine,

so that the train had to be delayed for four hours before a new engine could be got and the train to be dragged up to a station where a change could take place.

Shri B. L. Sondhi (East Punjab: General): When was that?

Prof. K. T. Shah: On the 8th of November, to be precise. The rolling stock was rocking in such a manner that passengers feel every bone in their body shaken. They often feel that they must have not a night but two nights' rest before their bones can be in order after the journey of this character.

Whether these engines are suited to our rail roads may be a matter for experts to decide upon. I dare say that they have got good value out of this money; they have not got permanent value out of this for the country. For I ask,—why should we not have this amount employed for developing agricultural implements—making industry in this country? Why not make run our own industry so as to suit our own requirements and not have these fancy tractors, of which photographs can be taken to be paraded in the public press and show that we are advancing, that we are progressing, that we are using the latest instruments and appliances and engines for the uplift of the country. They are wholly misleading; they do not represent the real possibility of development in this country.

And that brings me to the next point that is my objection to the policy of taking foreign loans. The specific objects for which these loans are taken are spasmodic ventures. They are *ad hoc* attempts and they are not in response to a whole, comprehensive, well considered plan of simultaneous advance in every requirement. Here the most productive, the most fruitful are taken by foreign capital. It may be given by an International authority, and not by a single foreign investor or a group of investors. But still the capital is foreign and it is taking up the 'cream' so to say of productivity in this country, leaving the husks, the refuse, so to say for Indian enterprise to everybody. I really do not see the advantage of such loans and I do not see any long range benefit to the country from such spasmodic action, such *ad hoc* attempts at borrowing from abroad and after having proved to a foreigner your credit-worthiness and your ability to repay in ten or 15 years the loans which they are so graciously pleased to give you.

There was a question raised this morning that other countries have got similar loans on 3½ per cent. and we have got them at 4 per cent. If that is the measure of our credit-worthiness in the eyes of the world I am afraid it certainly cannot be called first class credit. Whatever that be, I want to tell the House that this amount of a paltry 66 million dollars or 30 crores of rupees is nothing to a Government whose annual budget is something like 350 crores, which has been in the habit of using money for unproductive purposes and borrowing hundreds of crores. It can now trust the credit of its own countrymen sufficiently and raise for such productive purposes loans of the magnitude of 60 million dollars and not beg for it, so to say, by proving our credit-worthiness. They have got 66 million dollars in three batches on three different conditions for three different productive purposes. This loan is not worth accepting.

There is one point, Sir, which I omitted to mention in regard to the first motion which I hope you will permit me to mention now. I want that this entire policy should be reviewed by a committee appointed by the House so that they can examine the nature, the origin, the purpose and the use of these balances in the light of the possible future that lies before us, the obligations that are upon us, the ways in which we can utilise it ourselves. After fully examining them they can recommend to the House what we are to do and how this matter can be rectified while there is yet time and how best the country could be served. I hope this will not be treated with scorn as very often, suggestions from me are done with. I am hardened to it and I do not mind it, because I do not consider the utility of the remarks that I place before the House from time to time merely in the light of their immediate value. I take a long range view and from that point of view I hope this will not fall on deaf

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ears as my suggestions have fallen hitherto. Till now the excuse was that the Government was against the interests of the country. The present authorities cannot use that excuse. I hope, if not today, at least some day they will take the warning and act in the spirit and not the letter of what is contained in the motion before us today.

Shri Ajit Prasad Jain: Sir, there are two sets of matters before the House—one relating to the settlement of the sterling balances and the other to the two agreements made with the International Bank. The hon. Member who has just preceded me seems to be thinking as if today we are going to advance money to another country. It is one thing to lay down conditions at the time when you are advancing money or when you are initially entering into a contract but it is quite another thing to enter into a settlement when you are placed in a certain set of circumstances not of your own making but which have been made for you long ago. The whole history of the British in India is a history of inequities and injustice. We are the inheritors of many things which are unjust. We are the inheritors of many things that are unfair. We are the inheritors of many things that have been thrown upon us against our wishes. The question today is how best we can acquit ourselves in those circumstances.

The hon. Member entered into long tirades about the history of the sterling balances—some of his statements being correct and some incorrect. I want the House to judge the whole question dispassionately and in the correct perspective. Today we are not negotiating an initial agreement. The main agreement was concluded last year, in the month of June-July by Mr. Shanmukham Chetty. This is an expansion of that agreement. Let us see what were the principal terms of that agreement that concern us today.

It was an agreement for three years. One of the terms of that agreement was that during the next three years we shall be able to draw upon the sterling balances to the tune of 80 million sterling. At that time there was 80 million sterling to our credit in Account I, which is the account which we can operate for our current needs. During the first twelve months ending with the 30th June 1949 we could not draw any fresh sterling from Account II. During the second and third year each we can draw 40 million sterling. Our money which was in deposit in Account I was divided into two parts. One part which is for 15 million sterling was declared as multilateral currency, which could be converted into hard currency and the rest of it is to be spent in the sterling area. During the one year that has lapsed since that agreement was made certain new things have cropped up. One of the most important things is that on account of certain operations of O.G.L. XI we have drawn over and above the money that was in our account at the time when the June-July, 1948 agreement was entered into...

Shri Mahavir Tyagi (U. P. : General): Who was responsible for these operations?

Shri Ajit Prasad Jain: I am coming to that. We had to our credit 80 million sterling at that time. We have drawn that account by another 81 million. The first question was to regularise this and I say that the hon. the Finance Minister has regularised that account by drawing another sum of 81 million from Account No. II and putting it into Account No. I and thus regularising the transaction due to over-drawing that account.

The second question was that the amount of the convertible sterling was limited to £15 million. In fact our transactions with the hard currency areas came to much more. Again that over-drawing has been regularised. Our convertible portion of the sterling was fixed only for one year. The question was what should happen in the second year. There too I say that the hon. the

Finance Minister has done well. He has told the House this morning that our excess of expenditure over receipts in the hard currency area in the last year has been to the tune of 213 million dollars. That is we have over-drawn by about 80 million dollars. That has been regularised.

Now it has been accepted by the House during the course of the debate on devaluation that we are a part of the sterling area. We share its advantages as also its difficulties.

Prof. Shibban Lal Saksena: What are the advantages?

Shri Mahavir Tyagi: The advantage of drawing.

Shri Ajit Prasad Jain: The advantage of our trade with them. As an overall settlement it was decided by the Finance Ministers Conference that the drawings on the dollar pool will be reduced by 25 per cent. in the case of all the sterling area countries. Consequently we have accepted that during the next year the release of the convertible sterling would be 25 per cent. less than what it was in 1948. I believe that that was a very fair settlement. Again our drawings for the year ending 30th June 1950 and 30th June 1951 have each been increased from £40 million to £50 million. Locked at from that point of view this agreement which is before the House for its acceptance is not a new one. It is an agreement that arose from the principal agreement of 1948. I submit that the hon. the Finance Minister has done well and very well too and he could not have done better than what he has done under the circumstances...

Maulana Hasrat Mohani (U. P. Muslim): Why should they accept Mr. Shanmukham Chetty's agreement?

Shri Ajit Prasad Jain: The Finance Minister had to accept it because that was an agreement which was ratified by the House. Why did the House accept that agreement? It came before the House and it was ratified by the House, although it could have rejected it. The Finance Minister is not anything over and above this House. He had to abide by the verdict of the House. It was the verdict of the House to accept Chetty's agreement and the Finance Minister has only completed that agreement by providing for convertible sterling in future. He has rectified certain difficulties which have arisen out of working of that agreement.

That, Sir, is one aspect of it. But when we are considering the question of Sterling Balances there is a broader aspect of it as well. During the last one year we have drawn from our Sterling Balances a sum of 160 million sterling which will be equivalent to almost Rs. 220 crores. It means that we have been living beyond our resources. We have spent that amount out of our accumulations. That is not a small thing.

During the next two years that are to follow, the hon. the Finance Minister has told us that as a result of the additional unspecified sum which will be made available to meet the cost of the liabilities created under the operation of O.G.L. XI a sum of 50 million sterling has been set apart which we can draw in that connection. During the next two years our releases of the Sterling Balances in the ordinary course would be 50 million sterling instead of 40 million sterling which we had originally agreed to under Mr. Shanmukham Chetty's agreement. Thus during the next two years we propose to spend about 150 million sterling in excess of our earnings which we will draw from our Account No. 2. That means that during the next two years we will be spending Rs. 200 crores more. We have not yet been able to know how much of what we have drawn from the Sterling Balances has been spent on our necessities, that is, things which we require for the life of the nation, and how much of it has been spent on brass buttons—that is, luxuries and goods which are not necessary,—and how much of it has been spent on the import of capital goods. I submit

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that while we have to accept the past as it is—it is no use bemoaning over it—for the future we must be cautious and all our import from foreign countries must be for productive purposes and not for mere consumption unless such consumption is necessary for the life of the nation. I do hope that the hon. the Finance Minister will take good care to keep that aspect of the matter in view.

One other question I would like to refer to is with reference to the observation made on page 7 of the white paper issued in August 1948. It says:

"In considering the adequacy of these releases, the difficulties and uncertainties during the period of transition from a war-time to a peace-time economy in the United Kingdom and the ability of that country to build up an adequate export surplus must be borne in mind. At the same time, India's ability fully to absorb capital equipment and utilise the balances must also be taken into account. It is felt that even with the utmost liberalisation of import policy, consistent with the interests of the country, the total amounts of foreign exchange available will enable India more or less to break even at the end of the three year period."

What do we find? In the very first year the amount had to be overdrawn by 80 million sterling. That, I must submit, was a bad judgment. My hon. friend Mr. Mahavir Tyagi while interrupting me asked "who made this O.G.L.?" Well, he and I, the whole of this Assembly and the Government did it. And we had to reap the fruits of it. We have suffered from it. Nonetheless I say that we must be careful lest in future our calculations should be falsified in that manner. We should not exceed our original estimates by such huge amounts.

Coming to the second part of the question, namely, the two agreements entered into with the International Bank, I was really surprised to hear what my hon. Friend Prof. K. T. Shah said just a few moments back. He was saying so many contradictory things. In fact contradiction does not seem to matter much with him. He was saying that we are importing tractors and every bolt and every pin, that every little thing required for the tractors will have to be imported. That is true, and perfectly true. Unfortunately in India, as we are situated today we are not in a position to manufacture tractors. It will take us years to set up a plant for manufacturing tractors. What then is the alternative before us? Either we should wait until we are in a position to manufacture tractors, and until then go on importing foodgrains from foreign countries, or today to import tractors and to start growing food so as to make up the deficit. I leave the question to this Assembly to decide. It does not require any very great intelligence to understand that we should not wait for years and years until we are in a position to set up a factory and manufacture our own tractors and use them. The deficit in our food supply must be made up as quickly as possible; there is not a moment to lose. If that be the position I do not understand why he objects to the import of tractors.

Shri R. K. Sidhva: There is no deficit in foodgrain.

Shri Ajit Prasad Jain: Well, that is your opinion. Then why are you importing all this Rs. 150 crores worth of foodgrains? So far as the loan for tractors is concerned I think it is a very well thought of loan.

The second is the loan about the locomotive project. We have seen that during the last so many years—since the Second World War began—there has been no replenishment of the locomotives. Our Transport is one of those key concerns without which our economic difficulties cannot be overcome. I am glad that during the last one year the condition of our railway transport has considerably improved. Many more trains are running to time. There is greater facility in the transport of goods. But until our locomotives, rolling stock and the other things, which have grown old and worn out, are replaced by new ones our railways cannot work up to their full efficiency. That loan, again, I think, is a very desirable loan. Yet, even in this connection we have

to look at another aspect of the matter. The two Agreements as they have been presented to us give us a look of pick and choose. We have been told that a Mission on behalf of the International Bank came to India. We all know that. It investigated into our credit-worthiness and they have chosen to grant us certain loans. Prof. K. T. Shah felt ashamed that a Mission representing a Bank situated in a foreign country should come to this country to test our credit-worthiness. I feel nothing to be ashamed about it. Any creditor who advances money sees that his debtor is credit-worthy. There is nothing wrong about it. Nobody will advance you money unless he is sure that the money which he advances you today will be repaid. But there is another question. Should the question of priorities have been left entirely to the Mission? After all it is the nation which is planning its economy. That economy must be a planned and co-ordinated economy, an economy directed towards the prosperity and richness of the country and towards removing those deficiencies and wants that exist today. If that be so, surely an International Bank which has to deal with us as a creditor deals with a debtor cannot be the judge of it. I put a question this morning to the hon. the Finance Minister asking whether certain other loans connected with the development of agriculture were either negotiated or talked of. He said, "No". One of the loans which I had referred to was about tube-wells, another about import of fertilizers. I believe the whole question of food production is not one of importing tractors in an isolated manner. It is a co-ordinated question. It must be done under a certain definite plan which would require not only one type of equipment but many types of equipment, many more arrangements and many more things to fit one another. (*An Honourable Member:* There is a plan.) I am told there is a plan. But today it is not a question of plan—when the question of a plan comes up we shall talk about it, today it is a question of one particular agreement.

So far as these two agreements go, they are good and sound. May be better terms could have been secured—I am not sure of it either because unless we have facts and figures to show that another country has received advances on easier terms than us we are not in a position to say anything. No Member of this House has made a statement to that effect. The hon. the Finance Minister was not in a position to say anything about it. What has been rather vaguely whispered is that to certain countries loans had been advanced at the rate of $3\frac{1}{2}$ per cent. In fact, our second loan of \$10 million for tractors carries that rate of interest. I am not in a position to say anything about that but nonetheless we can be absolutely sure that our Finance Minister is not going to barter away our rights. He is not interested in America. He will not accept any terms which are worse than what we can get from any other creditor. But the whole question before us is one of policy. Is it a correct policy? Should we endorse the policy of taking loans from an International Bank for the purpose of development of our agriculture, for our steel industry, for our locomotives etc.? If this principle is once accepted, I think it would be but appropriate for this House to leave the details of interest, how the loan shall be repaid, how other things would be done, to the executive. No Legislature can ever enter into these details. I say that unless those details are flagrantly bad, or, may I say, unless there is something hanky-panky about them the Legislature should accept them.

Maulana Hasrat Mohani: Why should we borrow from an outside agency?

Shri Ajit Prasad Jain: Because you can't get it in this country, because the money market here is so tight. Moreover, you want dollars for purchases in America. Even if you raise the loan internally, you have to export goods because in America they will not take your currency notes. Have you got enough goods to export? If that is not so, then the question of dollars would arise.

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So, I submit that taking the question as a whole, both with regard to the sterling balances and with regard to these two agreements, I think the hon. the Finance Minister has done well and he deserves the support and the approval of the House.

Maulana Hasrat Mohani: Good gracious, good gracious!

Shri Ajit Prasad Jain: Probably my friend requires the approval of the U.S.S.R. Surely we are not interested in that, and Maulana would not accept anything unless it came from U.S.S.R. So no question of his assent or otherwise arises. His may be a lone voice and perhaps that should be accepted as proving the rule.

Sir, with these remarks I conclude.

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

Dr. P. S. Deshmukh: Sir, I thank the Government for allowing discussion on these motions, and I think it is a very highly welcome feature of the discussion that we have the opportunity of discussing two issues simultaneously. I think many hon. Members of this House who have already spoken were thoroughly justified in linking the two issues because one is very largely dependent upon the other and but for our entanglement in one sphere there might not have been any necessity for us to incur a loan. The sterling balances are some funds at our credit somewhere in the world, in the Bank of England. If those funds would have been available as a result of our sterling agreement to the extent of \$64 million, of course convertible into dollars, then there would have been no need for us to negotiate for a loan, to pay an interest upon it, a loan which is not on a pro-note, which is not even a bond, but a very exacting mortgage which we have entered into. A country like India with 35 crores of population and with enormous wealth should have, in the twenty-seven months of its freedom, been in a position to borrow merely on its own words a sum of Rs. 60 crores or even 100 crores—whatever may be its equivalent in terms of dollars.

Sir, I would like the House to visualise the situation when we discussed the first Budget after our independence, the schemes that were placed before us, the praises which were sung by the hon. Minister, Mr. Gadgil of the days to come, of how this prosperous country will be still more progressive and prosperous, how the whole country would be flowing with milk and honey. Where are those days? Did we expect at that time that our Finance Department will come to a pass when nobody will be prepared to trust them in the country and when they have to go to a foreign country for a loan, let themselves undergo an inventory of all their assets and liabilities and to agree to an interest which no financier under any circumstances would be prepared to tolerate? What are the rates of interest that one financier generally charges another in his own country? It can never exceed 1 or 1½ per cent. But here is a loan we have negotiated at 4 per cent. with 1 per cent. commission—that must not be forgotten. And what are the terms? Have they given the money in our hands? No. This creditor is a very shrewd creditor: it is not the International Bank which is the creditor, it is the United States of America which is the real creditor. After having charged 1 per cent. commission as though for a brokerage between the United States and the Government of India, they charge us 4 per cent., and they don't give us a single pie in our hands as if we were some drunkards who have already squandered their property, as if we don't know how to manage our country, how to manage our finances. Not a single dollar will be allowed to be touched by you, it will all be given to you in the shape of goods which are no longer required in the United States. Sir, if we were in a position to get from England sterling convertible into dollars,

we would have had cash in our hands and with that cash if we wanted tractors, if we wanted radios, if we wanted aeroplanes, we could have bought anything we liked. But here is an Agreement which is binding upon us only so far as interest and repayment is concerned. In regard to the articles you will purchase, you will have to purchase only those articles which they can spare. God only knows if these tractors are not reconditioned ones which were liable to be thrown into the ocean and which are being foisted upon us in this country because they were no longer wanted by themselves. I am certain nobody in this country can like this Agreement or the situation with which we are confronted. Two and a half years ago everyone of us was very hopeful, not so now. The British Government has been maligned now and again, but however hypocritical the British Government may have been, they left us in a sound financial condition, but look at the condition after 2½ years of their leaving. I must say our finances require to be looked into more carefully than has been the case hitherto. In the first year of our freedom, there was an excess income of Rs. 89 crores. Before the year expired, every pie of it was spent. This is not the way the finances of a country like India ought to be managed. If only the war administration was reduced—which has not been done up to date—we would have saved quite a lot. In spite of all talk about economy and retrenchment, the position is that we have in the Government of India and in the provinces the whole paraphernalia of a war administration set up by the British for purposes of war. The whole Department of Industries and Supplies is there. The Disposals Organisation is there. The money that comes into our pockets through it is very insignificant, whereas the expenditure that is being incurred on it is about Rs. 1 crore and 25 lakhs per year. If this money was available for us, would it have been necessary for us to go to the International Bank for a loan under these stringent conditions? I dare say it would never have been. Look at the experiment of reclassification of the railways. It was a very silly and foolish experiment. I do not know who is its author and who is responsible for it. We threw away revenue worth crores of rupees and what is the consequence? We will be paying 11.82 million dollars by way of interest during the period of repayment of only a part of the loan of 24 million dollars that we are going to borrow. It comes to nearly 49 per cent. of the capital that we are going to pay to the U.S.A. by way of interest. There are many more things I could easily point out. Very few people in this House or outside can justify or look with any complacency on the situation with which we are faced.

My hon. Friend who preceded me was arguing a bad brief when he tried to support the hon. the Finance Minister. He also found fault with the criticism that was advanced by Prof. K. T. Shah. Although the excesses with which he sometimes speaks may not be absolutely congenial to every one of us, his points and arguments were, I think, very very sound in many respects, and it is very necessary for us to bear in mind the warning that he gave us, lest we come to worse conditions and circumstances. (*An Honourable Member:* We have already come to them).

My specific amendment was that not more than one-third of this amount should be spent on purchasing articles for which we are going in, and the rest of the amount should be spent on obtaining from the U.S.A. machinery out of which the articles which we are buying can be easily manufactured.

An Honourable Member: But that is not the agreement!

Dr. P. S. Deshmukh: I know that, and I also know that it cannot be modified, but what I am trying to point out is that that should have been the approach and the attitude of the hon. the Finance Minister. It does not matter if some 1000 or 2000 acres of land remain kankar-infested for a couple of years more. As has been pointed out by Prof. Shah, the purchase of these tractors is going to make us dependent upon the U.S.A. for a very long time to

[Dr. P. S. Deshmukh]

come. If the International Bank was sympathetic, if the U.S.A. was sympathetic, they can lend us at even 12 per cent. per annum and I would be prepared to go in for large loans and purchase machinery with which to manufacture these tractors and certain other things that we are so keen on importing. That would have been the right approach. This way, we are getting something which makes us ever dependent upon others. In my view this is not altogether the best way to improve our production of food. I for one take a very pessimistic view of the matter. We are doing many things by which production is going to be very seriously affected. I for one do not like the abolition of zamindaris in such haste. We are trying to see that someone who has never managed land or cultivated land produces the same or little more than the person who has been doing it for generations. That, of course, is a separate question, into which I would not like to go here. On the one hand, we are trying to bring under cultivation thousands and lakhs of acres of land, because they were lying waste or were kanks-infested, but we are not taking heed of the really cultivable lands which are going out of cultivation. Only last year, the figures showed that in the province of C.P. and Berar about 26 lakhs of acres of land had gone out of cultivation, because the cultivators had no money. Thus we find the phenomenon that on the one hand we are bringing new land under cultivation and on the other hand we are faced with a far larger percentage of land going out of cultivation.

My point in moving this amendment was that the Government of India should hereafter at any rate, whenever they want to incur a loan from foreign countries, get the key industries established in India and produce such articles as tractors and the like. That would be a far better way of helping the country and reducing our dependence.

So far as sterling balances are concerned, the Finance Minister has certainly improved upon the situation and to that extent he may be really worthy of being complimented, but if he has succeeded so far, I would very much wish that he had succeeded in obtaining a larger share of the sterling balances to be converted into dollars, so that payment of interest would not have been necessary.

With these words, I commend my amendment to the House.

Sri B. P. Jhunjhunwala: There are two motions before the House, one regarding the Sterling Balances Agreement and the other regarding the agreements entered into with the International Bank in respect of loans.

Sir, I do not blame the Finance Minister. As Mr. A. P. Jain said, it is not his fault that he had to enter into an agreement in July 1949. It was nothing but the result of the agreement entered into by his predecessor, Shri Shannukham Chetty. I submit that it is neither the present Finance Minister nor his predecessor who is to blame. It is the whole House which supported and ratified the agreement which was entered into by his predecessors—it is we who are to blame. But the question is not one of apportioning the blame. What we have to see is this. Was the thing that was done in the past the right thing or the wrong thing? It is not important whether we were a party to it or not, because whatever has been agreed upon has been agreed upon and we have to follow it and we cannot go back upon our words. The real point is what we can do in the future. We have to see whether we should follow the same policy we had been following in the past, namely, of believing in whatever the British Chancellor of the Exchequer said and taking his words and coming to an agreement. This morning the Finance Minister said that after devaluation several questions arose and there was a debate in the House of Commons. Mr. Churchill has been raising the question of sterling balances in season and out of season and instead of agreeing to pay our dues, he has been demanding that they should take something from us and

other countries which he says they had defended. I would ask him to put his hand on his heart and say whether he has defended our country or whether he has ruined our country. Before the creation of these sterling balances our paper currency was about Rs. 170 crores. In order to pay for the exports and valuable services rendered by our people, more and more paper currency was issued, these were put in the Reserve Bank, and we were paid in that currency and these were taken to be secured against sterling balances which accumulated in England. Inflation went so high that from Rs. 170 crores it rose to Rs. 1,200 crores. The ultimate result is that the whole economy of our country has been completely upset.

Sir, as I have said at the beginning, I do not mind as to what has been done in the past. What to say of Mr. Churchill, Mr. Attlee, the Prime Minister of England has gone to the extent of saying that they are considering whether the sterling balances could not be cut. The question of the scaling down of the sterling balances is being raised over and over again. The hon. the Finance Minister told us this morning, in regard to the discussions that took place in the House of Commons on the question of sterling balances, that he has asked our High Commissioner in London to enquire whether the Sterling Balances Agreement entered into between India and the U.K. is going to be a unilateral agreement, or bilateral agreement and whether Britain is going to stick to the agreement which they have entered upon or not. From the reply that he received from our High Commissioner after his talks with the British Government our Finance Minister says that he was satisfied. Sir, as I have said, I do not want to blame him, but I would request him not to be so easily satisfied with what the British Exchequer or the British Government says. They had been telling him up to the very end that they were not going to devalue the sterling. Till the actual decision was taken in regard to devaluation, they did not take him into their confidence, so that he may be prepared for what he should do with our currency.

Without taking much time of the House, I want to make one concrete suggestion for the consideration of the hon. the Finance Minister. Our Government should settle the question of the balance which is to our credit out of the sterling balances. The British Government should create a fund for the amount of our sterling balances due from them to our credit in the Monetary Bank so that we can utilize the same to the best advantage of our country. Whenever we require any material we can draw upon that dollar resource and go on building up the economy of our country.

Sir, the Sterling Balances in the beginning were Rs. 1,700 crores. Now it has been reduced to Rs. 700 crores; we have only Rs. 700 crores to our credit with the British Government in the form of sterling balances. What has happened to Rs. 1,000 crores of sterling balances? The hon. the Finance Minister said that a portion of this amount was utilised for the purchase of defence stores which the Britishers or the Americans had left back. I do not know of what use those stores have been, whether it was at all necessary to go in for those stores. Then about 206 crores of rupees were paid for capitalising the pensions due to the British Secretary of State's service officers who were here in order to keep up the British Empire. The rest of the sterling balances which had accrued has been spent away, for what I do not know. They have been spent on the import of useless materials from sterling areas. It appears, when our Prime Minister was in the U.K. he was told, "Well, your Government has been importing things and drawing upon sterling balances in excess of the amount agreed upon by the Finance Minister." They knew that the materials which they had been exporting from their country was to their advantage. Otherwise, they would not have been blind to what was happening. They wanted that all these materials should go. They exported the materials and finally put the blame on us saying that our Government has imported more

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than the agreed amount. All these were consumer goods, useless materials without which we could easily have managed. In this way we have frittered away all our sterling balances. My suggestion, therefore, is that we should reopen the whole question with the British Government, enter into a sort of permanent agreement with them, put all the money in the International Bank against which security we can go on drawing from time to time for whatever purpose we require in the interests of the country.

Sir, as my hon. Friend Prof. K. T. Shah has said, it was not necessary to go in for these loans of 30 million dollars for the purchase of locomotives and other materials and agricultural implements. Sir, so far as locomotives and other materials are concerned, I am not so much competent to say as to whether they were indispensable. This has been a good bargain but so far as the question of the loan is concerned, I can say that it was not at all necessary to raise a loan. If our Government had been vigilant to conserve our foreign exchange, it would not have been necessary at all to go in for this loan. Mr. Ajit Prasad Jain asked, "Well, what was wrong in going in for a loan?" Of course, there is nothing wrong. But why should we put ourselves in a position where a lender comes and makes enquiries about our credentials and solvency? We have very good credit. When we have so much capital, why should we not be vigilant in maintaining our credit and preserving our own will? Why should we create circumstances and conditions necessitating these arrangements?

Shri M. Tirumala Rao: Why should not our capitalists respond to the Government loans?

Shri B. P. Jhunjhunwala: You enquire of the capitalists.

Mr. Naziruddin Ahmad: The Government have finished them altogether.

Shri B. P. Jhunjhunwala: My friend Mr. Tirumala Rao says that the capitalists do not subscribe to the loans floated.

Shri Mahavir Tyagi: Because there is wastage.

Shri B. P. Jhunjhunwala: No. I would ask my friend Mr. Tirumala Rao to see what our Government are doing regarding the Investigation Commission. The whole money is hidden. As soon as they are traced by the Investigation Commission, they will come out and put in industries.

Shri Suresh Chandra Majumdar (West Bengal: General): The capitalists are too poor to subscribe for loans.

Shri B. P. Jhunjhunwala: No. Sir, I was saying that going in for a loan of a paltry sum of Rs. 30 crores is not necessary. As regards the terms of the loan, as Dr. Deshmukh was saying, we are compelled to purchase such and such material only with the loan. We should not take a loan on such terms. We should take loans in order to spend as we like. If we take loans on condition that we purchase such and such machinery with them, what will happen if tomorrow we find that we do not require that sort of machinery? What are we to do then?

Sir, as Dr. Deshmukh was saying about the tractors and other things, I have my own apprehensions about the schemes which the Government have on hand for the development of agriculture and so on. I differ from them. It may be that they may be successful, but I feel that they will have to change their policy very soon. These tractors may not suit our country. This tractor economy may not succeed in this country at present.

The Honourable Shri Jairamdas Doulatram (Minister of Food and Agriculture): These are reclamation tractors and not cultivation tractors. They are heavy tractors.

Shri Mahavir Tyagi: Will the land be reclaimed every year or only once?

The Honourable Shri Jairamdas Doulatram: Once only.

Shri B. P. Jhunjhunwala: I now come to the agreement for the Damodar Valley Project loan.

Mr. Deputy-Speaker: I believe it is not before the House now.

The Honourable Dr. John Matthai: I made a reference to the negotiations that have been going on.

Shri T. T. Krishnamachari: We will have another debate for that.

Shri B. P. Jhunjhunwala: I was talking about the whole policy. What I was saying was that in this matter a very high officer who is now in the service of the Government of India,—I do not want to name him—said that they had a discussion with the people of the International Monetary Bank and then they made enquiries regarding the machinery and technicians. He said that if these people are earnest in giving us the loan and in developing our country, the machinery was available in America and technicians were also available. The prices too, he said, were 25 per cent. lower than that quoted by Britain and other countries. The Government could have got these things three years in advance and made the projects complete three years before the estimated time. But the International Bank would not advance money. The Americans will not sell us those plants and machinery. If we take loans from the International Bank on the conditions stipulated, we will be submitting to their supervision of our national works such as our irrigation projects, etc. I for my part would not accede to such terms. As has been stated by Professor Shah, all these questions of sterling balances and the amounts that will be released by others and spent by us and these loan agreements should be enquired into by the Devaluation Committee already appointed and a decision reached by Government.

Sir, I do not support the amendment which has been moved by my hon. friend Shri Ajit Prasad Jain.

Sardar Bhopinder Singh Man: Sir, I had no intention to interfere in this debate. I was hoping in a vague way, in a proverbially agriculturists way, that we were going to have loans to finance our agricultural industry and was happy about it. But this morning, on a point of clarification, I was told that the loan that was going to be advanced to us is not meant for the agricultural industry as such, but only for a particular item, heavy tractors only. This clarification turned my happiness and joy into disappointment. The hon. Minister, a financial wizard as he is, has shown colossal ignorance of agricultural industry and its needs. He has agreed to purchase reclamation tractors or heavy tractors. The impression has been given that probably with the arrival of these heavy tractors our food problem will be solved. The fact however is that in the cultivation process reclamation of land is just one item. After reclamation it will be light tractors that will be required.

Ch. Ranbir Singh (East Punjab: General): For that there are several bullocks in the country.

Sardar Bhopinder Singh Man: Any land once ploughed with heavy tractors cannot be ploughed with bullocks. Besides the economy and speed of mechanised Agriculture is different from bullock plough economy and speed.

Ch. Ranbir Singh: You cannot do reclamation work otherwise.

Sardar Bhopinder Singh Man: A land which has been once reclaimed with the aid of heavy tractors would require the use of the same tractors six years

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later. The use of the heavy tractors for other work would be uneconomical. What will we do with them in subsequent years? The result will be that these heavy tractors will become a heavy responsibility in subsequent years. This is purchasing one blade of scissors only. What can we do with the reclaimed land unless there are tube wells to irrigate this land. Take the "kadar" area in the United Provinces. The position is that in the land which was reclaimed last year we cannot sow now, because there are no light tractors in the Central Tractor Organisation. There are only one type of tractors there and that is the heavy type. When we approached the authorities saying that the land which was reclaimed last year is going to lie fallow this year, the reply was, "We have no light tractors." The result will be that without a well-co-ordinated and well-planned scheme for the entire agricultural organisation, the purchasing of only heavy tractors would mean sheer loss. Again, take C. P. or Bhopal. There are certain areas there where the construction of tube wells is not possible, because the water level is too low. Naturally there we shall have to erect dams and construct canals. For this dam machinery is required. Without dam machinery, this area which you are going to reclaim will be of no use. My point is that this scheme of purchasing one type of machinery will not be conducive to the agricultural industry of this country. So I request the hon. the Finance Minister to impress upon the Banks that they should enlarge the scope of this agreement so far as purchase of the machinery is concerned. The machinery should include not only heavy tractors, but light tractors, tube wells and dam machinery. Along with this, they should not forget also that the tractors with the Central Tractor Organisation will require repairs. These tractors require repairs in the field and we have no adequate repair arrangements and when the tractors require repair, they have to go either to Bombay or Delhi. Therefore we shall have to get repair-shop equipment. Unless we view the entire agricultural industry of the country as one organic whole, this one-sided isolated purchase will lead us to sheer loss.

Shri M. Tirumala Rao: Is it proposed that the discussion should conclude today or would it continue for another day also?

Mr. Deputy-Speaker: There is no time limit. As long as discussion continues on all relevant issues and the House is interested, it will go on. I have got a number of names here apart from those who have tabled amendments. Therefore in the fitness of things, I am afraid it will go on.

Shri Arun Chandra Guha: Sir, the principal agreement regarding sterling balances was completed in July 1947. Then that principal agreement was extended on two different occasions up to 1951 and during this period that agreement has also been modified in certain matters, but since the last modification, there has been a new development, i.e., the devaluation of the sterling and of the rupee. This has made a great significant change in the whole position and that is why I have moved the motion for a reconsideration of the whole situation.

Sir, money as such has no particular value except for its purchasing power. Sterling before its devaluation had a certain purchasing power in the international market, and after devaluation it has lost that purchasing power. Here, I should like to enter into the genesis of these balances. These balances were accumulated because of the services rendered and articles supplied by India during the war period. Also because of the expansion of our foreign trade and also certain restriction of our imports, our trade balance position was favourable and there were accumulations on that account also. Then, Sir, the services rendered and the articles supplied were rendered and supplied not only to Britain but also to the United States and other allied countries. Sir, we could have got dollars from the U. S. A. for the services rendered and articles

supplied to them, and for the services and articles rendered and supplied to the United Kingdom, the United Kingdom would have to pay by rupee in cash to India. But because of India's political subjection to Britain, all these were utilised for the benefit of the United Kingdom and these balances were allowed to be accumulated in the form of sterling. The Reserve Bank of India was compelled to hold these reserves with the Bank of England in various types of securities. Sir, the White Paper published on the subject makes it clear that these balances were thus the absolute property of India and would not be made the subject matter of discussion with any foreign power on any discretionary basis. These are not inter-governmental war-loans. We can understand, Sir, that Britain also has a difficult time and somehow or other we feel that our economies and finance are closely connected with those of England and from that point of view, we may be ready to make some concessions, to show some accommodation so that the United Kingdom may tide over her difficulties. But now it is not a question of India making any accommodation. Now it has become a question of the debtor showing some accommodation to the creditor. It must be remembered that India is the creditor and Britain is the debtor in this case.

Sir, the position in early 1947—I am quoting from the White Paper—was that India was free to utilise her sterling balances in any manner she pleased for expenditure in or remittances to the soft currency areas. She was also entitled to convert them into dollar or any other hard currency at her own discretion.

Such was the position in early 1947 but since we have become independent the position has changed adversely for us.

One point which was made much of is that we have been allowed to have a greater dollar convertibility, that is, previously the dollar convertibility was only available for 15 million pounds that is up to \$60 million and now it has been available up to \$150 million to fill up our dollar gap. It has been calculated on the basis of 75 per cent. of the 1948 imports, but Sir, that should not be the standard for our necessity for development. The 1948 imports as far as I can understand were mostly of luxury goods and consumer goods and not much of capital articles were imported in 1948.

The Honourable Shri K. C. Neogy (Minister of Commerce): Question.

Shri B. K. Sidhva: Last year the Honourable Commerce Minister said it was 2 per cent.

The Honourable Shri K. C. Neogy: It was 1.5.

Shri Arun Chandra Guha: During the war period, Sir, we should have been given sufficient facilities to develop our industries as they did in America. The Grady Mission came to enquire into the possibilities of industrial development of our country and its recommendations were there but we were not given that facility. Then after the war when we have got Independence, we have got that political facility and we should devote all our energies and resources to that. Now we have to undertake that development plan but we have been handicapped with this that our dollar imports should be only up to 75 per cent. of the 1948 import and that I think is a very bad bargain.

The present 50 million sterling release is also very inadequate. Another point which I should have mentioned before—I like to mention here is that as far I know, India is perhaps the second largest dollar earning country in the Commonwealth. As such she should have much better consideration from the Commonwealth countries but instead she has been scantily and niggardly treated in all these matters. Another point which has been stressed much is that all the Commonwealth countries have to undergo 25 per cent. cut of their dollar import of 1948. The United Kingdom can afford that as she is a highly

[Shri Arun Chandra Guha]

industrialised and developed country but I think India which needs development and industrialization at a very rapid pace cannot afford to undergo this sacrifice. England is a rich country and is like a giant but India is a poor country—a dwarf compared with the U. K. and this equality of sacrifice means a great injustice to the poor country, India; and it would simply mean the strangling of her future development and from that point of view also that equality of sacrifice of 25 per cent. from the 1948 imports is not a fair concession for India.

A third point also has been emphasised and that is that we have been restored to the full membership of the Sterling area. By itself that is not a very good consolation. We should see if it really brings any benefit to India. When it was convenient for the United Kingdom, she decided that India should not be a Member of the Sterling area and now when it suits her she again restores her to the membership of the Sterling area and India has been asked to share all the obligations and of course the privileges will scantily come to India. India has one privilege of surrendering her due share perhaps to the benefit of Britain. India will put all her dollar earnings in the dollar pool to get back only in doles. That is the condition on which this whole agreement has been signed.

Particularly after the devaluation, the whole agreement requires to be reconsidered. As I have stated before, money by itself has no particular value except as purchasing power but 50 million sterling may mean something before the devaluation of sterling but it does not mean the same thing today. So the whole thing should be reviewed and reconsidered from the point of view of devaluation and also from the point of view of our future industrial development.

Then Sir, as for the loan agreement, this 4 per cent. interest is much higher than what the other countries have been getting. As far as I remember, Britain got a big loan from America some years ago and I think the interest was not more than 1.5 per cent. or something like that. Some months ago, the Government of India tried to raise an internal loan and the interest was 2½ per cent. and now we are giving an interest of 4 per cent. to an international bank. That also is a discreditable bargain for India. I must say this loan brings no credit nor is it fair to India. Moreover as for the purpose for which this loan has been brought, I differ from the policy of the Government. Sir, I have stated on many occasions that our first effort should have been to build our internal economy on the basis of decentralized economy, rural economy, that is industry on the basis of co-operative and rural enterprise and that should have been our first attempt and then we could have gone for bigger industries. These smaller industries could have given immediate results but instead we have been rushing headlong for bigger industries for which we shall have to wait for years till we can get any result if those schemes and plans are all carried to a successful end. And that is a big "if". From the point of view of future development and of immediate needs also the foreign loan should have been not for heavy tractors but for some other purpose which would have given us immediate results as regards supplying our foodstuffs and our bare necessities. From this point of view also I think the whole agreement, the sterling balances agreement and the loan agreement should be reconsidered, particularly after the devaluation.

Mr. Deputy-Speaker: I would like to know if any honourable Minister wants to take part in the debate. I find from the hon. Minister of Parliamentary Affairs that Government find it difficult to allot any other day and this day was fixed for completion of this discussion.

Ch. Ranbir Singh: We may sit for a longer period.

Mr. Deputy-Speaker: Would the honourable Minister of Commerce take part in the debate?

The Honourable Shri K. C. Neogy: No.

The Honourable Shri N. Gopalaswami Ayyangar (Minister of Transport and Railways): I do not propose to speak, Sir.

The Honourable Shri Jairamdas Doulatram: I too do not propose to speak.

Mr. Deputy-Speaker: Then the House may sit for half an hour, if it so wills.

Mr. Naziruddin Ahmad: There are many speakers and the subject is of great importance.

The Honourable Dr. John Matthai: Most of the subjects which have been raised are subjects which were dealt with in some detail during the devaluation debate and I do not think that I should take more than ten minutes or quarter of an hour at the most.

Mr. Deputy-Speaker: The matter is in the hands of the non-official side. If a number of people want to take part in this debate, we can sit till half past five. I am willing.

Shri M. Tirumala Rao: There is a committee meeting at five for some honourable Members.

Mr. Deputy-Speaker: After all there do not seem to be many Members who want to take part. Some suggestions have to be made as to what is to be done in the future. Hon. Members will confine themselves to this, whether it should be ratified or not. We have gone too far in that matter and we can conclude by quarter past five.

Shri T. T. Krishnamachari: May I suggest that the Chair calls upon the hon. Finance Minister at 5 o'clock. We can go on up to five.

Mr. Deputy-Speaker: I find it difficult to ration time in view of the fact that a number of friends are outstanding in my list. But if the House is agreeable to sit till quarter past five, we will finish it.

Honourable Members: Yes, yes.

Mr. Deputy-Speaker: I will call the honourable Finance Minister at five minutes past five of the clock.

Honourable Members: Very well.

Mr. Deputy-Speaker: Hon. Members must know that having regard to the time at our disposal not more than five minutes will be allowed to each Member.

It is not the intention of the Government to force this. It is a matter which is already over but having regard to the terms of the agreement this matter may be taken up once again towards the end of December and therefore the Finance Minister would like to have some suggestions.

The Honourable Dr. John Matthai: It would be better, Sir, if this debate was concluded today.

Mr. Deputy-Speaker: I shall call the Finance Minister at 5-5 P.M.

Shri T. Prakasam (Madras: General): Sir, the subject of sterling balances came before this House two or three times and today one of the motions moved by the Finance Minister is for the consideration of the arrangement which this Government has entered into with the United Kingdom. I only wish that the arrangements are not called agreements. In regard to the sterling balances

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India stands in the position of a creditor and Britain is in the position of a debtor. It is the debtor that has been giving considerable trouble with regard to the payment of the balances due from them to India. India has been exploited always right through the Britishers stayed in India as our rulers. Even after they have quit we have been having trouble in regard to getting back our money from Britain. Britain's conduct in regard to this matter is not the conduct of a debtor but that of a creditor or a dictator. Look at the agreements entered into by us. There is agreement No. 1. There is agreement No. 2 which is for mere extension of time. Then there are agreements Nos. 3, 4 and 5. Our Finance Ministers are called to Britain and they have to endorse what is suggested. Each time they say that we can take only so much and not ask for more. That is not the way in which a debtor country should deal with a creditor country. I am unable to understand why this sort of conduct should be permitted to go on.

Some member said that he was annoyed that the U. S. Ambassador should enquire about our credit-worthiness. But what is the position of our Government here? We do not say to Britain "You owe so much money to us. You put it down by such and such a date. We want the money for such and such a purpose."

Shri B. K. Sidhva: If they do not pay?

An Honourable Member: Abuse them.

Shri T. Prakasam: Mr. Sidhva asks "If they do not pay?" What do our people do in this country when debtors refuse to pay? They threaten to go to the insolvency courts.

Shri B. Das: The British have got their capital here.

Shri T. Prakasam: That is what I say. Why refuse to pay when they have enough to pay. Government goes on entering into agreements and putting them before us and asking us to agree to them. I am sorry we are going in a wrong direction. It will not be palatable to London to hear what I am saying. It is said that we are tied down to Britain even though we are supposed to have become independent. We are tied down to Britain in regard to currency matters. The 1s 6d ratio was settled on the floor of this House 25 years ago and it is still round our neck. It is that which has brought about the devaluation. They are still masters and we are still their servants. They are roping us down into some arrangement or other which they call agreement. There is no arrangement except that we are always willing to give it the name of agreement.

I would like to know from the Finance Minister how India has been treated with regard to the payment of the sterling balances. Let us see how Britain is paying to other countries, small countries, how much is due to every one of them and how much Britain has been releasing for their benefit. Why are we treated in this manner and for what purpose? Our departmental heads go there and enter into these agreements in this manner. We are treated very badly and the amount we have to get from them according to them is not the amount that is shown in the cash balances. On the 14th August 1947 the cash balance was shown as 1,160 million sterling. Out of that what are the payments made to us till now? If I take each item it will prevent other speakers from having their say. When we say that we want the whole money Mr. Churchill was good enough to say last time in the House of Commons "Why not we cancel the sterling balances altogether?" The hon. Finance Minister gave some answer to Mr. Churchill but I was not able to follow the implications of that reply. Tomorrow when the General Elections come in England the present Government there may go down and Churchill may come into power and if he says that England should repudiate the sterling balances

our country will go without getting anything further. What is the guarantee you have in No. 1 or No. 2 agreement? You go there and agree to take what they are prepared to give. They say "take 35 million dollars from this 1,116 million pounds account, put it into another account, be satisfied with it" and we say "we are satisfied". Then they say "take another 35 million, we shall have no objection, take it and put it into the other account" and again we agree. I would request the Finance Minister to tell us whether there is any guarantee in any one of these agreements with regard to the payment of the balance due to us out of the 1,116 million pounds.

Shri L. Krishnaswami Bharathi: What is that guarantee worth? That can also be repudiated by them. If this is to be repudiated, the very guarantee can also be repudiated.

Shri T. Prakasam: My friend is quite right. We are in that position that anything can be repudiated with us; only we are not to repudiate what is thrust upon us forcibly. 1,214 crores of rupee debt (currency debt) has been thrust upon us by Britain before she left India. That we have not been able to repudiate. We have been taking it with us as a debt to be paid by the people of India. Even in the New Constitution that has been passed there is no reference to that. No reference is made there as to how we have been taken through by Britain in regard to these matters. It is a cruel treatment so far as Britain is concerned. So long as there is no guarantee for the balance of the debts due to us there is no use your bringing up these matters before this Assembly, or any Assembly hereafter, and saying "you better agree to all these things". We have been agreeing.

Your bell has gone. I will have to stop here on this matter and I will revert to another matter.

Mr. Deputy-Speaker: I am extremely sorry. There does not seem to be much time for any other matter.

Shri T. Prakasam: If that is all the interest you can take in it I would also stop. I know where the country is, where the people are, where the government is and how we are going through the whole of this business. But when we are made helpless we have to get through. With regard to the second item of the loan—the International Monetary Fund loan (what a big name has been given to it?)—the Sterling Balances are there on one side and this is another. Of course America is the foremost country in the world today. It is a creditor country not only to India but to the whole world. What has this creditor country, America, been doing with regard to this International Monetary Fund and the distribution of these loans for the help of the poorer countries? Sixteen countries had been under the influence of this American Marshall Aid. This Marshall Aid has become proverbial, we all know, and sixteen countries were under that Marshall Aid. Of these sixteen Britain was one of the countries. What was the position of Britain with regard to this? They entered into an agreement like this, the agreement which has been produced here (No. 1 agreement, No. 2, No. 3 etc.) with all the concessions given to us, creditors. There was an agreement like this under the Marshall Aid business. Britain took the money. She entered into the contract and she was borrowing money and carrying on with that money. Two years back Mr. Dalton was the Chancellor of the British Exchequer, the predecessor of Sir Stafford Cripps. He was an honest man and he spoke the truth when he pointed out his own position with regard to this Marshall Aid and the dollar-sterling exchange. He stated that so far as his country and the fifteen other countries were concerned, the exports which America had been making to all those countries were so gross and so great that the exports exceeded the imports by 10,000 million dollars. That was the position. When they came to that position Mr. Dalton said "how can I pay? I cannot pay this amount; I am forced to pay 18

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million dollars on a single day; for five days if I pay like this I have to shell out 50 million dollars; now can I pay; so I declare that I suspend this agreement. Then he started this new business. Britain always succeeded in her difficulties without having a single penny because it had at the helm of affairs the top finance men in the world. Having suspended the payment and having made it clear that they were not in a position to deal with the situation, he started the other thing. But we were ready for everything. Take the Commonwealth. We were drawn into the Commonwealth and our leader, Pandit Jawaharlal Nehru, told us that being part of the Commonwealth does not mean that India is committed to anything, India remains untouched although it is in the Commonwealth. But it does not appear to be so. From stage to stage we are being drawn in the name of this Commonwealth. In the Finance Ministers' Conference that was held recently in England Pandit Jawaharlal Nehru also was there.

An Honourable Member: Go to another point.

Shri T. Prakasam: There is no other point. This point will conclude you and me also. You cannot depend upon these agreements. It cannot be a better document than what Dr. Dalton had in his head when he suspended the agreement altogether. You must have a long vision. You may not understand the position. Then have it examined as to where we stand today, where we will stand tomorrow. Then on the top of all these things the devaluation of the sterling and the rupee also came in. The sterling may be devalued, I can understand. But why should the rupee also be devalued? It is because we were tied to it twenty-five years back. At that time when the Bill was passed into law on the floor of this House—when it was enhanced from one shilling four pence to one shilling six pence—we tried our best and we fought much. That position is continuing even now. I would request the Finance Minister, the Prime Minister and the whole Cabinet to consider whether the position in which India stands today, of being dragged from sterling devaluation to rupee devaluation, is one in which India can get on and whether the people can survive if these things continue.

Therefore I would appeal to the Government to consider calmly how these things should be readjusted and resettled. And unless drastic steps are taken let me tell you that economic conditions cannot be restored, and financial conditions cannot be restored. You may be issuing statements and we may also be trying to defend ourselves, but we are heading towards a crisis. We have come to that crisis now. I have been telling for more than a year or so that we have been heading towards this crisis. It has come on us with the devaluation. Where it will take us we do not know. I would earnestly appeal to Dr. Matthai and all his learned friends who are with him in the Cabinet to consider the situation and do the needful at the proper time at least at this stage.

Mr. Deputy-Speaker: I am satisfied that there has been sufficient discussion on this matter. There is no meaning in sitting longer. If the Government wants, let it find time. Even the motion as it stands is for consideration—there is no particular resolution. It is to be discussed, so there is no harm. The House will now stand adjourned.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Wednesday, the 30th November, 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES (PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Wednesday, 30th November, 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.

RESOLUTION RE ABOLITION OF NIGHT AIR MAIL AND PASSENGER SERVICE

Sjt. Rohini Kumar Chaudhuri (Assam: General): Sir, I beg to move:

"This Assembly is of opinion that the system of carrying mails and passengers by air by night should be abolished forthwith."

Sir, at the outset I want to make it clear that by using the word "forthwith" I do not mean that this system should be abolished tomorrow or as soon as the Resolution is passed. What I mean is this: I understand that the present licence will continue till the 15th of January, 1950. What I would request the hon. Minister in charge of Communications to do is this, namely, that he shall not renew that licence after the 15th of January, 1950 without carefully considering the points which I shall place before the House today. I am glad to have this opportunity of moving this resolution as it will enable the Government to clear many things which have been given out in the press and elsewhere and which have to some extent prejudiced our mind also. I believe that the hon. Minister in charge of Communications will also welcome this opportunity of explaining the position of the Government in having the Night Air Mail Service.

First of all I would request the hon. Minister to refute, if possible, the following charges, namely, that the Government has been favouring and supporting a particular concern—the Himalayan Aviation Co. Ltd.—although this Company has not been working properly in the past and although because of certain allegations or certain facts being proved against them, their licence was suspended. What has induced the Government to overlook that fact and now place that company in a very enviable position, namely that of carrying all the important mails in India practically and also the privilege of carrying passengers by night although it was stoutly stated by the Government in reply to certain questions last year that the industry has not arrived at such perfection in which you can allow passengers to be carried at night? In spite of all this why is it that the Government has now favoured this particular company and allowed them to carry passengers by night?

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Then it is also alleged by some that this policy of carrying mails and passengers by night has been resorted to as a result of a programme chalked out by the Government itself for nationalisation of the industry. If that is so and if the Government intends to nationalise the industry, although that is not the policy of the Government—a Resolution to that effect was moved on the floor of this House in 1946 and was negatived by the Government itself.....

Shri M. Ananthasayanam Ayyangar (Madras: General): No, no.

Sjt. Rohini Kumar Chaudhuri: Not quite negatived, but they said that the existing lines should not be interfered with and the Resolution was then withdrawn.

Shri M. Ananthasayanam Ayyangar: They said they would examine it.

Sjt. Rohini Kumar Chaudhuri: I stand corrected, I am only speaking from memory. Certainly there will be a large number of people in this country who are now wedded to the policy of nationalisation in every branch of activity. I do like the word "nationalisation", however impracticable it may be; I would welcome it. But if that is the policy of the Government why adopt this indirect method of killing some operators first and then adopting the policy of nationalisation.

Thirdly it is alleged that in respect of the Licensing Board, which was presided over by a High Court Judge before, the Rules have been revised and the High Court Judge or an independent person does not find a place in the Board now. The Director-General of Civil Aviation who was never a Member of this Board and who was always only consulted as an expert—that gentleman, together with his Deputies—has been appointed Member of the Licensing Board. And it is alleged that the Licensing Board has been conceived in such a way that it is now at the beck and call of the hon. Minister or the Government Department.

The Honourable Mr. Rafi Ahmad Kidwai (Minister of Communications): It is there to carry out the policy of the Government.

Sjt. Rohini Kumar Chaudhuri: I am only stating the allegations which have been made. I have not got facts in my possession by which I can contradict these allegations. It is up to the hon. Minister of Communications to do that.

The grounds on which I object to this Night Air Mail Service are these. First of all, considering the present state of ground organisation, want of proper lighting arrangements, want of proper radio and other arrangements it is absolutely unsafe now to carry passengers and mail by night. And the fact that it is unsafe has, in my opinion, been carried home to the Government because this Night Air Mail Service was suspended during the months of the monsoon. I should like to know from the hon. Minister if any improvement in ground organisation has been made in the meanwhile which would justify the resumption of the Night Air Mail Service, and if he has got sufficient assurance from the company concerned or from any company that they would be able to operate the service at night during the next monsoon. If no such assurance has been given and if the Government is not in a position to give that assurance, namely, that they will be able to carry mails and passengers at night in the next monsoon season, then I submit that it is cruel and absolutely futile to have deprived a few existing operators from carrying mails by day and to bring about the ruin of their business. If the hon. Minister is in a position today to satisfy this House that the ground arrangements and other things are complete and that without any risk and without any fear the Night Air Mail Service can be carried on not only now but also during the next monsoon, then of course

there will be something to say in his favour so far as the question of safety is concerned.

Shri Suresh Chandra Majumdar (West Bengal: General): May I know what is your precise objection?

Sjt. Rohini Kumar Chaudhuri: My precise objection is this. Considering the present condition of arrangements in respect of ground organisation even at the principal stations where the night air mails are now operating I consider it absolutely unsafe for the Government to resort to the carrying of mails and passengers by night. I do not think any improvement has been made in the ground organisation since the time when it was considered prudent to suspend the night airmail system. If my information is correct, then even such an important.....

Shri R. K. Sidhva (C.P. and Berar: General): May I know whether the hon. Member has visited Nagpur during the night?

Mr. Speaker: Let him first finish. Why are Members so impatient to get at points which they consider of importance? Let him state his case to the House, then hon. Members will get a chance of replying.

Sjt. Rohini Kumar Chaudhuri: Why are you so unkind to me, Mr. Sidhva?

Mr. Speaker: Does the hon. Member know there is a time-limit?

Sjt. Rohini Kumar Chaudhuri: Sir, I did not know that.

Mr. Speaker: For the benefit of the House I may say that the time-limit is 15 minutes for each speech excepting for the mover who will get half an hour at the most and the Government Member who will also get half an hour in his first speech but not in the second speech.

The Honourable Mr. Rafi Ahmad Kidwai: What about the second speech?

Mr. Speaker: If necessary, 15 minutes.

Sjt. Rohini Kumar Chaudhuri: That being the position of time-limit, I would ask hon. Members not to interrupt me but allow me to speak.

That is the first point about public safety. The second point to which I would refer is the economic waste which has been caused by the introduction of the night airmail. The present position is that the night airmail service gets all the mails. It is only in some other routes such as between Assam and Calcutta where the night airmail system is not in operation that the others get mail to carry during the day. Otherwise the entire mail is carried by this night airmail service. If this system is allowed to operate for some time the day operators will have to close their business and practically the night airmail service and the night operators will be the only agencies in the field. It is meaningless even now to call it the "night airmail" because during the day no airmail is carried by any plane.

Speaking of the economic waste, I submit it will be up to the hon. Minister to contradict that, but now an additional 11,000 hours are being run on account of this night airmail. That is to say, 1½ million miles of distance is being operated by the night airmail and about 7½ lakhs of gallons of petrol is being additionally consumed by this service. The mail was very conveniently carried during day prior to the introduction of the night airmail system and if any large additional advantage has not been gained by carrying the mails at night then it is purely an economic waste and is an irresponsible act on the part of the Government. We want petrol and petrol products for various purposes. If we could have saved this 7½ lakh gallons of petrol, we might have

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got from the dollar countries petrol products or kerosene and the increased supply of kerosene to that extent would have been a great advantage to the rural public. Then we have the Grow-more-food campaign and the relief and rehabilitation of refugees. The Government of West Bengal have a project of rehabilitating the refugees by allowing them to run motor buses in the mofussil towns. The Magistrates of those Districts say that there is more room for running of bus services and thus giving an occupation to the refugees but on account of the order of the Government of India, due to shortage of petrol, that scheme has been kept in abeyance by the Province. If this petrol which is now being unnecessarily consumed by the night air services had been released for such operations, then a large number of refugees might have been rehabilitated.

Then petrol is required for the Grow-more-food campaign also. It is more so when the campaign is undertaken on the basis of co-operative farming run by refugees, as for example in Jalpaiguri. Tractors are being used which now get a limited supply of petrol. That being so, the extra petrol consumption by this night-flying service should be stopped. Furthermore, for procurement of food grains from district areas, for transport of food, cement, iron and steel, sugar and salt, buses are being used in larger numbers in West Bengal because there the rail transport has become extremely difficult. These essential services also need an increasing amount of petrol but they cannot get it on account of shortage. While they cannot get petrol, we should not unnecessarily and uneconomically waste it for the luxury of night-flying schemes. So, as it is well-known to the hon. Minister, for various kinds of productive services a larger number of buses and motor cars and jeeps have to be used but they cannot get their full requirements of petrol because of a shortage. For this reason at least, the night air service should be suspended at least for such period as the position of petrol improves.

Then I come to the question of the scheduled air operators. There are six scheduled air operators who work during the day. They have been carrying the mails to the great advantage both of the public and of themselves. I say 'themselves' for this reason, that no air service in India and very few air services in Europe or America have been able to earn much profit because the industry after all is in an infant condition. In other countries like America if there is a loss to any aviation company that loss is met by the Government itself at the end of the year just as was done in the case of Air India where Rs. 19 lakhs have been contributed by the Government of India to that company so that their losses may to some extent be met from this outside grant. If from these scheduled operators the entire mail service is withdrawn, the result will be that they will run at a very heavy loss. They are already running at a loss in spite of the subsidy but when that subsidy is withdrawn from them then their losses will be heavier. I think it was stated by the hon. Minister somewhere that the number of passengers in the day services has not diminished on account of the operation of the night airmail system. The night airmail service, as my hon. friend Mr. Kamath has said somewhere, was a "nightmare" service at the beginning, but when they are assured that they are going to get sooner or later the entire passenger service as they have already got the entire mail, if they also get the entire passenger service by killing all the other operators, then they are quite prepared to give "additional comforts" necessary for night buds. And after all what comfort do you need at night excepting a place to sleep? Even now you have got to spend about eight hours to go from Delhi to Calcutta. You start at 11 and arrive in Calcutta at 7 the next morning. Is it for such a slow service that aeroplanes are needed? The inventor of the aeroplane will simply hang down his head in shame if he knew that for a distance of 800 miles, it takes 8 hours.

Shri M. Ananthasayanam Ayyangar: You want to return at midnight?

Sjt. Rohini Kumar Chaudhuri: You cannot return at midnight.

Now, as regards the mail itself, you have got now only one time when you can send the mail by air from Delhi to Calcutta, that is at 7 P.M. If you want to send another letter, you have to wait till 7 P.M. the next day.

Shri M. Ananthasayanam Ayyangar: It can go by the morning plane.

Sjt. Rohini Kumar Chaudhuri: There is no morning plane. By morning train it may go, but it does not go by the morning plane. But if you have a day air mail service, you may post a letter in the morning and it will reach Calcutta by noon.

The Honourable Mr. Rafi Ahmad Kidwai: It goes by both. Mails go in the morning also.

Sjt. Rohini Kumar Chaudhuri: Am I to understand then that these scheduled operators, who operate during the day, get some traffic?

The Honourable Mr. Rafi Ahmad Kidwai: They get more than half the mail.

Sjt. Rohini Kumar Chaudhuri: If that is so, then my objection on that ground does not hold good.

Dr. P. S. Deshmukh (C.P. and Berar: General): So your Resolution is withdrawn?

Sjt. Rohini Kumar Chaudhuri: Not yet.

Formerly, the position was that surcharged air mails only will be carried by the night mail and all others by surface mail. No mail could go from different places by the night air mail which linked only important cities and could not be carried to all places. It could be done only with the help of the surface mail and only for that reason they had abandoned it. Only half of the mail went by air mail and half by the other mail. Now, even this subsidy cannot be obtained by the scheduled operators. I submit this is an infant industry. They have been carrying on somehow. If you now take away half the mail, then their position is to that extent worsened. The other company which is in a position to run the service at Rs. 126 in place of Rs. 203 or Rs. 190 from Delhi to Calcutta get the advantage of full load of both mails and passengers. I do not understand why one particular company or two particular companies should receive this special favour of the Government at the cost of the other scheduled operators who have been carrying on business to the satisfaction of the Government and not only carrying public passengers but also mails in their aeroplanes. It is these scheduled operators who had, at the end of 1947, placed their aeroplanes at the service of the Government in connection with the Jammu and Kashmir operations.

Prof. N. G. Ranga (Madras: General): Were they not paid for it?

Sjt. Rohini Kumar Chaudhuri: Of course, it was not free, but they did lend their aeroplanes. What is the meaning of killing these people? If you are prepared to run the whole aviation by the Government, that is to say, if you will not require the service of anybody, then why not run the night mail also yourself? And then, don't look out for anybody in the time of emergency, during war, during famine or any other similar situation, to provide aeroplanes. In my opinion, it is absolutely an irresponsible act to shape the policy in such a way as to destroy the existing operators and to favour two companies about whom there has been so much said. The Indian Overseas Service which had some financial difficulty and which had to close its

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business has now been allowed to operate between Bombay, Nagpur and other places, although they had declared their inability to run the service. Why should any special favour be shown to the Himalayan Aviation Company? These are the two companies which have been in the public eye and I hope the hon. Minister will be in a position to clear the allegations made about them.

Mr. Speaker: Resolution moved:

"This Assembly is of opinion that the system of carrying mails and passengers by air by night should be abolished forthwith."

There are many amendments to this Resolution. I would like to know which of these are going to be moved.

Shri H. V. Kamath (C.P. and Berar: General): I don't propose to move my amendment, but I would like to speak on the Resolution itself.

Mr. Speaker: That is a different matter, but I want to know at present which of these amendments are going to be moved.

Prof. K. T. Shah (Bihar: General): Sir, I beg to move:

"That in the Resolution for the words 'abolished forthwith', the following be substituted:

'suspended, pending investigation by a Committee of independent outside experts, fully acquainted with the economics of Air Transport Industry in all its aspects, including the requirements of national security, and appointed by Government, with instructions to consider the working of the Air Transport in India and report within three months of the date of their appointment on all factors affecting the aggregate cost of carriage by air of goods, passengers and mails, and advise Government upon the economic, equitable and efficient manner and conditions on which the widest possible use of Transportation by Air may be brought about, and the greatest possible development of Aviation be achieved in India in the shortest possible time, meanwhile distributing the available mail traffic *pro rata* among the air transport services existing on November 1, 1949, at rates fixed by Government uniform per unit of weight and distance so as to guard against any tendency to monopoly in any branch of air traffic.'"

Mr. Speaker: Amendment moved:

"That in the Resolution for the words 'abolished forthwith', the following be substituted:

'suspended, pending investigation by a Committee of independent outside experts, fully acquainted with the economics of Air Transport Industry in all its aspects, including the requirements of national security, and appointed by Government, with instructions to consider the working of the Air Transport in India and report within three months of the date of their appointment on all factors affecting the aggregate cost of carriage by air of goods, passengers and mails, and advise Government upon the economic, equitable and efficient manner and conditions on which the widest possible use of Transportation by Air may be brought about, and the greatest possible development of Aviation be achieved in India in the shortest possible time, meanwhile distributing the available mail traffic *pro rata* among the air transport services existing on November 1, 1949, at rates fixed by Government uniform per unit of weight and distance so as to guard against any tendency to monopoly in any branch of air traffic.'"

I understand some other members have also given other amendments today. I take it they are not going to be moved.

Shri Algu Bai Shastri (U.P.: General): I have given notice of an amendment to the amendment of Shri Kamath, but in view of the fact that Prof. Shah's amendment contains the spirit of his as well as mine, I do not want to move mine.

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Mr. Speaker: No explanation is necessary. I only wanted to know if he wants to move his amendment.

Shri T. A. Ramalingam Chettiar (Madras: General): May I suggest that since the facts are not known accurately, the hon. Minister may make a statement giving the facts and then the discussion may go on. I think that will be more convenient.

Mr. Speaker: I would personally prefer the Minister to intervene now. If he at all wants to intervene, it is better he intervenes at this stage.

The Honourable Mr. Rafi Ahmad Kidwai: Sir, I am thankful to my friend Mr. Rohini Kumar Chaudhuri for giving me an opportunity to explain to this House the various points that have been raised since the introduction of the night air service in February last. Mr. Chaudhuri has himself mentioned that perhaps in allowing the Indian Overseas Service to operate the night services, a favour was shown to that company. On the other hand all the air companies have been saying that the night air service cannot be run with profit. They have been declaring from the very beginning that any company that undertakes it will suffer a heavy loss and the failure of the Overseas is cited as a proof of what they have been saying.

For the last ten months a whispering campaign has been going on making all sorts of allegations against the Ministry of Communications and against the Civil Aviation Directorate. The Air India has issued a pamphlet in which all those whisperings have been mentioned. I am thankful to the Air India for it gives me an opportunity to meet the charges that have been levelled.

Those friends who have gone through that pamphlet must have noticed that an insinuation has been made that while on the 13th of January Government had invited some air companies to operate the night service between Bombay and Delhi, all of a sudden on the 15th of January or the 16th of January, the Ministry decided to allow the Indian Overseas Services to operate the night service between Calcutta and Bombay and Madras and Delhi. This has been shown as a sudden surprise. Now, I have got before me letters from all the companies to the effect that they knew what our proposal was.

When this idea of starting the night services occurred to me, I was told that there were only two companies that had spare aeroplanes to undertake this service. They were the Air Services of India and the Indian Overseas. Of the two, the Air Services of India was better organised, financially more sound, and was being run economically. Therefore, I sent for its representative sometime in July 1948 and discussed the proposal with him. The representative promised to discuss the matter at the Headquarters and send me their proposals. The proposals came to me in the shape of a letter, dated the 5th August 1948, that is, six months at least before the licence was given. In this they accepted the proposal. They said that they were in a position to undertake the service immediately. They said that six planes would be required, of which they had four and that they would get one in no time. But they demanded a charter rate of Rs. 5 per mile. It was not my intention to spend even a single extra pie on this night service. Therefore, after some discussion the proposal was dropped.

Then the other firm, the Indian Overseas, were contacted. They demanded Rs. 4 per mile. I said, "No, we will pay for the mail whatever we are paying to the day services. But we will get you a licence for carrying passengers." Now, I may tell the House that all these negotiations were not being carried through the Director-General of Civil Aviation, but through the Director-General of Posts and Telegraphs, because I had suggested that once the terms of carrying mails were settled with the Postal Department, the

[Mr. Rafi Ahmad Kidwai]

Director-General of Posts and Telegraphs would recommend to the Air Transport Licensing Board to give the licence.

As I have said the Indian Overseas in their first letter demanded Rs. 4 per mile. I told them that there would be no extra payment and that they would have to carry the mail on the terms on which the day services were carrying it. I further said I was offering this simply to expand the air services, because no operator of the day service was prepared to add to their present operations or to lower their fare and attract greater traffic. In the end, sometime in November, the Indian Overseas agreed to this proposal and wrote to the Director-General of Posts and Telegraphs that if they could get a licence for carrying passengers and mail they would undertake this service, and as they had spare Dakotas, they would start service without any loss of time.

Shri Mohan Lal Gautam (U.P.: General): What is the date of that letter?

The Honourable Mr. Rafi Ahmad Kidwai: That was some time in November—on the 25th of November to be exact.

Accordingly, the Director-General of Posts and Telegraphs recommended the grant of a licence. That recommendation was sent to the Director-General of Civil Aviation for report. The Directorate-General of Civil Aviation reported that although the aerodromes had got lighting arrangements, they would not advise a licence being given for carrying passengers, because the safety measures had yet to be completed. On that, when the Indian Overseas were informed that they would not be allowed to carry passengers, and that they would have to operate on freight, they said they could not undertake the service, because that would not bring them sufficient income.

When this happened all the air companies were called at a Conference. The Deputy Minister met them. As an alternative it was suggested that the Bombay-Delhi route could be equipped for carrying passengers and the two companies that were already operating this route were asked whether they were prepared to undertake night service. Before we received a reply from either of the two companies, the Indian Overseas reconsidered their original decision and said that they would be able to develop freight trade and were prepared, therefore, to operate the night mail service without the right of carrying passengers, provided the D.G.C.A. would be prepared to equip the aerodrome, as soon as possible, to enable them to carry passengers later. This reply was received some time in January. Then the two companies, who were asked to let us know the terms for running the night service between Delhi and Bombay, were informed that they need not bother, because the original scheme will be recommended to the Licensing Board.

The Licensing Board convened a meeting. They issued notices on 26th January for the meeting to be held on the 29th, because the Postal Department had arranged with the Indian Airways to start service from 1st February. All the companies affected by this arrangement were present at the meeting. They protested that the time was too short for them to decide whether they could undertake this or not. They asked for one month's time and the Board agreed to it. The Board said: The question of the Scheduled Air Services need not be taken up. The Board agreed to give licence only for a month to the Indian Overseas and had made it clear that if within one month's time the affected Scheduled Services came forward with a scheme, the Indian Overseas would not have any claim on the ground that they had been given one month's licence. The operation of the Scheduled Air Services under the scheme should not be deemed to confer upon the licensees any vested right

for the extension of the service beyond the period of one month fixed in the provisional licence or in any manner entitle them to a renewal of the licence for a further period. Therefore, this licence was given only for one month, simply because we wanted to allow other companies to consider if they were prepared to run this service. They later on said that they were not interested and were not prepared to incur any loss. This is all that happened. No other company was prepared to undertake the service.

Then another thing has been said or insinuated in the pamphlet. It is alleged that perhaps the Indian Overseas agreed to operate because they were quietly told by the Government or by the Minister concerned that he has in his mind an all-up air scheme due to come into force on first April. They therefore readily agreed to suffer the loss for two months to be recouped later on. Now, that is also a lie. I am surprised that the Air-India who happened to know the developments from the very beginning should have brought out this pamphlet.

Now here is the letter from Shri Gurunath Bewoor, the A.T.L.B. when they were issuing a licence in which he wanted to be assured that the conferment of the licence is only for the surcharged articles sent by air and that the licence should not be considered to cover the scheme of the carriage of unsurcharged articles. These are the two charges that I have ventured to explain to the House, because so much whispering has been going on against me and against the D.G.C.A. making all sorts of allegations by people who know that it was all wrong.

Now I may tell the House that the first person with whom I had discussed the "All-up-mail" scheme was Mr. Desai of the Air Services of India sometime in July last. That was for exploring the scheme and to find out how it will affect or help the Air Companies.

The other charge that has been brought against me is that I have changed the rules and changed the personnel of the A.T.L.B. to bring them under my control. I accept the charge. I found that if I wanted to pursue any particular policy, I should reconstitute the Board and frame new rules. Several instances that came to my notice forced me to come to this conclusion.

During the time of Hyderabad troubles, our Agent-General several times failed to get a seat for a passenger who had to come here with important papers. It was not economic to start another service on that account. But, he thought, whatever be the expense, we must have a service. He met in Bombay the Chairman of the Indian Overseas and requested him to extend the service that was running from Lucknow-Kanpur to Nagpur and to Hyderabad and beyond so that men could be sent out of Hyderabad by that service. The Chairman agreed, but said that this would be a losing service and therefore would expect the service later to be extended to Delhi. To this our Agent-General, Mr. Munshi, agreed. The Indian Overseas made the application and the Agent-General recommended it. This was recommended by the States Ministry also, but the Board did not accept it because the rules laid down that if one service was in operation, another service will not be allowed to operate as it would entail loss of traffic. I was not aware of this arrangement of the Agent-General. But when he found that he could not get a licence, even a provisional licence for the Indian Overseas in respect of their application which was a month old, the matter was brought to my notice. But I found that I could do nothing. I decided that if the Board would not issue a licence in that emergency, the Ministry should issue a licence. This decision forced the Board to issue a temporary licence.

I may also tell the House that it was not the only instance. The Madras Government was very anxious that an alternative service should be established

[Mr. Rafi Ahmad Kidwai]

between Delhi and Madras—a service that will not touch Hyderabad. I induced more than one company to make an application. An application duly reached us, but there was one difficulty in granting it. There was the possibility of the traffic of Deccan Airways which was plying between Madras and Delhi being affected. It took months and months to come to a decision on this question. By the time decision was taken, the Deccan Airways had ceased to operate and Jupiter Airways, which was given the licence, operated that line. The original purpose was not served.

These are not the only reasons. I will give another reason. The Bharat Airways have got three Skymasters. They are in the country now for more than a year. These planes are four-engined planes. They can carry passengers day and night. They can be equipped for carrying 60 passengers and they can be run economically at very cheap rates. They offered their planes for the night service between Calcutta and Bombay for carrying mails and passengers at cheaper rates than I had suggested. I was tempted to accept the offer. But Mr. Tata came rushing to meet me in Calcutta where I had gone for two days and said that if these four-engined planes were allowed to ply, Tatas would have to close down the service. I accepted his objection. Now I ask the House how any progress is possible if no new company is allowed to introduce better planes and more comfortable planes and operate economically?

Shri H. V. Kamath: More comfortable?

The Honourable Mr. Rafi Ahmad Kidwai: Yes, more safe to travel. But that was the objection. Then I tried to allow them to operate between Calcutta and Karachi. We found from the returns that many passengers from Calcutta to Karachi were travelling by International Planes because they were four-engined planes. I asked the Bharat Airways to put in an application for a licence between Calcutta and Karachi and cater for the traffic that was going to foreign planes.

But they could not get that licence also, because Indian National Airways was operating that route and they said that they would lose their traffic. Now this is the position. I am determined to pursue my policy and so long as I am allowed to pursue that policy by this House, I would not allow anything to stand in my way. That is why the personnel was changed and the rules were changed.

Now, it is said that the day services are losing traffic because the night services are carrying passengers cheaply. I have returns before me of the traffic of all the affected services since the inauguration of the night services. I have also got the returns for the last year to see if there had been any seasonal fluctuation and I find that excepting for the Deccan Airways, all the services are getting not only the passengers that they got last year but sometimes even more. Now Tatas say that they have lost almost half of their mail, but that they were bound to lose. When all-up air mail was introduced, the night service was in operation and the night service was getting half of the mail. It was on the advice of Mr. Tata that I suspended the service, announcing that the service would be resumed after the monsoon. I refuse to believe that Mr. Tata had given me this advice simply to get the load that the night service was carrying and then try to persuade me not to resume the night service so that he may retain the load.

Much has been said about the concessions that were made to the air companies in the current financial year. At the Budget time the Finance Minister announced the introduction of the all-up air mail and also the rebate in petrol tax. It is entirely wrong to say that these two concessions are not

bringing any benefit to the air operators. First they said that all-up will not bring any extra money because the rates for carrying airmail had been considerably reduced. Secondly, the benefit from the petrol rebate will not be as much as the Ministry claimed. I had said on one occasion that our estimate was that the benefit from the rebate to the air companies would be Rs. 40 lakhs and the benefit to Air India alone would be more than ten lakhs. Mr. Tata had again and again asserted that the benefit from petrol rebate would not exceed Rs. 20 lakhs and Mr. Bewoor told me more than once that the benefit to Air India will not exceed Rs. five lakhs. Now, I find that for the first six months Air India alone has claimed a rebate of Rs. 5,87,818.

Shri B. L. Sondhi (East Punjab: General): After devaluation?

The Honourable Mr. Rafi Ahmad Kidwai: Devaluation does not affect it at all. And so they will get more than Rs. ten lakhs for the year. Considering that their consumption of petrol has considerably increased during the last two months, they will get more than Rupees twelve lakhs, and yet they have been crying that this concession has not meant anything to them.

The third question that I want to take up is the uneconomic operation of the night airmail. I was reading.....

Sjt. Rohini Kumar Chaudhuri: This is something for Prof. Shah.

The Honourable Mr. Rafi Ahmad Kidwai: I was reading an article this morning by an American expert on Indian Aviation, and I found that while giving a description of all the operating companies, special mention had been made of two companies; one was Airways India and the other was Deccan Airways for their efficiency and economic operation. Now, going through last year's balance sheets of these companies, I find that last year the income per mile by Airways India was slightly over Rs. 3/8/-, and this income not only met the operation costs but after setting aside something for depreciation charges, they saved for profit account Rs. 3,87,000, say almost Rs. 4 lakhs. The capital of the company is only Rs. 21 lakhs. The company maintains only the planes that they require and they have done very well. The same is the case with Deccan Airways. Last year their income per mile was also slightly over Rs. 3/8/-. They were allowed to operate only for eight months and ten days because their licence was suspended for three months and 20 days. But whatever they earned, earning Rs. 3/8/0 a mile for 8 months and 10 days proved sufficient to meet their operation and maintenance costs for the whole year and also to leave a very small profit. Had they continued operation for the whole year, the result would have been perhaps a little better than Airways India.

Now Mr. Tata says and Air India say that their operation cost is Rs. 5/3/0 a mile (**Shri Mahavir Tyagi:** Because of hostesses). It is difficult to accept this figure because I know that whenever Government wanted to charter a plane, they quoted Rs. 5 a mile but when private parties chartered a plane from Air India, they charged only Rs. 3 or Rs. 3/4/0 a mile. It is difficult to believe that businessmen like them would charter the plane at a loss. I would like the members to go through their balance sheets to see how the profits are made.

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

Sir, I tried to look into the history of this Air Line. I was told that the company was started as a private concern of Tatas in 1932-33 and no accounts are available, but they had three planes at that time costing each Rs. 20,000. At the most they must have invested in the three planes only Rs. 60,000.

[Mr. Rafi Ahmad Kidwai]

They may have set aside a lakh for running expenses and we may presume that the capital they invested was Rs. two lakhs. Though no accounts are available, we have got accounts of the huge amounts that were being paid to them for postal mails. They were being paid, I think, Rs. five a lb. for carrying mail from Karachi to Bombay or Madras. Later on in 1944, for the first time, they submitted their accounts to D.G.C.A. because they intended to convert it into a public limited company. At that time the capital was shown to be a little over Rs. ten lakhs. Whatever may have been the investment in the beginning the accumulated amount at that time was this amount. For the two years of 1944 and 1945, they earned a profit of Rs. twelve lakhs on an investment of Rs. ten lakhs. Then in 1946 this company was converted into Air India Limited. They charged Rs. 13 lakhs for the assets; they charged Rs. 20 lakhs for goodwill and all that is there. All this has been added as a burden to the capital of the Company besides Rs. twelve lakhs taken as profit. Hon. Members will be astounded if they see their depreciation charges. They have got 15 Dakotas; they have got 6 Vikings and the total cost would not have been more than 66 lakhs. Today they have got, in three years' time Rs. 66 lakhs as depreciation charges. They have got a novel method of calculating depreciation charges.

Shri R. K. Sidhva: At what rate are they calculating?

The Honourable Mr. Rafi Ahmad Kidwai: Aeroplane they charge at 30 per cent. and they charge for the next year on the whole amount and not on the depreciated amount. I am told that income-tax laws allow such depreciation and today every Dakota that they are using has paid its cost in depreciation charges because they have set aside one third every year, calculating, three years as Dakota's life.

Shri Ajit Prasad Jain (U.P.: General): According to you they are charging 33 per cent. as depreciation charges each year on the total value of the plane. It means that the whole price of the plane is paid over in three years. What actually is the life of a Dakota?

The Honourable Mr. Rafi Ahmad Kidwai: I do not know but the Dakotas that were purchased three or four years ago are still continuing.

Shri R. K. Sidhva: What is their life?

The Honourable Mr. Rafi Ahmad Kidwai: I do not know. I was told that they will be declared obsolete in 1951.

Shri Mahavir Tyagi (U.P.: General): They cannot be obsolete so long as they are paying depreciation.

Shri Upendranath Barman (West Bengal: General): Mr. Rohini Kumar Chaudhuri referred to the appalling waste of petrol. Please say something regarding that.

The Honourable Mr. Rafi Ahmad Kidwai: I am coming to that. It has been said that a favour had been shown to Himalayan Airways. I have already told the House about favouritism shown to Indian Overseas. Now Mr. Rohini Kumar Chaudhuri has again asked me why this Himalayan Airways has been favoured. Has it been favoured? I have got the letters from Shri Gurunath Bewoor, from Mr. Tata, from Air Service of India, from I.N.A., from Deccan Airways and from other Airways in India. They say that the night flying will not pay. They complained that Government was not prepared to pay more for the night services than they were paying to the day services. They said that the night services will not get a single passenger except in

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emergencies. When we received this reply, when these companies refused to operate, either jointly or separately, I suggested to the D.G.C.A. to negotiate with other companies.

I had made the offer of operating the night services, to Air India. I told them, "Your flying hours are at 30,000 and this will give you another 15,000; you have engaged so much staff and you are over-staffed and then this additional service will perhaps make the operation economical." Mr. Tata seemed inclined to accept it. He wanted three months' time. I told him that when we were suspending it for the monsoon, that would give him the necessary time. But it seems Shri Gurunath Bewoor had committed himself to other companies with whom he had formed a combine.

Sjt. Rohini Kumar Chaudhuri: Is it a fact that the hon. Minister agreed to guarantee at the rate of Rs. three per mile and five of the six scheduled operators wanted to accept that condition but the hon. Minister withdrew that?

The Honourable Mr. Rafi Ahmad Kidwai: I am coming to that.

Shri Mohan Lal Gautam: Is Shri Gurunath Bewoor connected with any of the air lines?

The Honourable Mr. Rafi Ahmad Kidwai: Well, Sir, I was telling that first I offered it to Air India. Then I offered it to I.N.A. and I offered it to other companies also.

Fandit Balkrishna Sharma (U.P.: General): Your fault seems to be that you did not accept their terms. Why did you not accept their terms to oblige them?

The Honourable Mr. Rafi Ahmad Kidwai: Well then, there was the formation of that combine. I said, all right. The idea was that all the six companies should combine to run these services, this night service and the day service that Indian Overseas were operating. They agreed; they demanded a guarantee of an income of Rs. 3 per mile. It was on my suggestion but then the suggestion was subject to the acceptance of Government. In the meantime, two of my suggestions they turned down. I had insisted that all the six companies should combine to operate this service. But because Bharat had offered to operate this service by Skymasters on our terms this was not acceptable to them. They said no, only five companies would, operate and Bharat was not acceptable to them. I sent for Mr. Bewoor once again and impressed on him the necessity of accepting Bharat as one of their partners, as otherwise it would be thought that because Bharat had accepted Government's terms they were being victimised. He said that he would reconsider but again wrote back to say that they cannot work with Bharat. That was the one condition that they did not accept.

Then there was my anxiety to introduce a service to try lower fares. These companies were opposed to lower fares. I had proposed a ten per cent. surcharge on the first class railway ticket. They first suggested 25 per cent. and in the end they said they would agree to 12½ per cent. But when Mr. Bewoor went back to Bombay he wrote to me suggesting 25 per cent. Once again I had a talk with him and after he reached Bombay he wrote back the same thing. Therefore I could not pursue this question of the guarantee. Because, firstly, as everybody is aware, the financial position of the Government was such that perhaps they would not be prepared to give this guarantee although I was sure that there was no risk. Secondly, when these people are so much determined not to reduce the rates, I thought perhaps they would not be earnest in making it a success. Therefore the guarantee question was dropped.

Then there is the question about petrol.

Shri C. Subramaniam (Madras: General): If Bharat had agreed why not give them the contract?

The Honourable Mr. Rafi Ahmad Kidwai: I do confess my weakness that I did not want to injure Air India.

Mr. Rohini Kumar Chaudhuri said something about petrol consumption. Every service that operates consumes petrol and if petrol has to be saved then there are ways and ways of saving it. Why should I discontinue a service that is taking 100 per cent. load, and is very popular? If I had to discontinue any service then it would be the service that carries only 20 per cent., 30 per cent. or 40 per cent. load. Why should I discontinue a service that is carrying 100 per cent. load and which is very popular and which is prepared to extend their service if we ask them to? Only yesterday their General Manager came to me and said that they had only a provisional licence and therefore they are not prepared to invest money. They said that if they were given a term license like other companies they would arrange to import at least two four-engined planes to operate on the Calcutta-Bombay route, not only Sky-masters but new French planes that will do the Calcutta-Bombay trip in 3½ hours and which will carry a larger number of passengers and a greater load of mail. They will be more economical to operate than the present Dakotas. Naturally they are not prepared to invest money so long as this controversy is going on and they do not know whether they will get a term license or not. But I have asked them to put in their application now for a term license before the A.T.L.B. If they are satisfied with their working why should they refuse them a term licence? I have covered the whole ground...

Shri Mahavir Tyagi: You have not told us the rate at which they are carrying the mails now.

The Honourable Mr. Rafi Ahmad Kidwai: The same rate that the A.T.L.B. has fixed for the day services. They are not paid anything extra. The rate is freight rate plus 25 per cent. If mail is to be sent to Bombay it would be the freightage plus 25 per cent.

Shri Mahavir Tyagi: At what rate are they carrying passengers?

The Honourable Mr. Rafi Ahmad Kidwai: At first class railway fare plus 12½ per cent.

Sjt. Rohini Kumar Chaudhuri: If the two-anna postage is not agreed to either by this House or the Government in the next budget, will the hon. Minister be able to continue the night air mail service?

The Honourable Mr. Rafi Ahmad Kidwai: I have said again and again that the all-up air mail has nothing to do with the increase in the postage. It is a device to provide certain load to the air companies as a help to them and therefore it will not be affected by any change in the postage rate.

Shri Ajit Prasad Jain: It was alleged by Mr. Rohini Kumar Chaudhuri that this Himalayan Air lines had misbehaved and its licence was suspended under suspicious circumstances. I would like the hon. Minister to enlighten the House on that point as it will go a long way to show the stability and reliability of the company.

The Honourable Mr. Rafi Ahmad Kidwai: It is true that we received certain allegations against two companies and immediately we suspended the services and referred the matter to the department concerned for further action. They wrote back to say that they had no proof and that all they had intended was to warn us to watch their working and not for any action.

Shri R. K. Sidhva: What was the cause of suspicion?

The Honourable Mr. Rafi Ahmad Kidwai: I said that the department sent a certain complaint and we suspended the services and referred the complaint back to them. Then they said that they had got no proof but only asked to watch them.

Shri Ajit Prasad Jain: We would like to know the nature of the complaint.

The Honourable Mr. Rafi Ahmad Kidwai: The nature of the complaint in such cases is always smuggling.

Shri Arun Chandra Guha (West Bengal: General): Has any other company offered to lower their rates for passenger service?

The Honourable Mr. Rafi Ahmad Kidwai: Except the Air India, other companies after watching the working of the night air mail for one month are introducing lower rates to attract passengers. The Deccan Airways have already offered to lower their rates. The I.N.A. is introducing the return ticket system by which they will carry passengers back on the payment of 40 per cent. over the single fare. The Airways India has also introduced certain family concessions and Bharat has applied to lower their charges on one of their routes. They are seeking the permission of the A.T.L.B. for reducing their fares.

The Assembly then adjourned for Lunch till Thirtly-five Minutes Past Two of the Clock.

The Assembly reassembled after Lunch at Thirty-five Minutes past Two of the Clock, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

Prof. K. T. Shah: Sir, I have listened with the utmost attention to the speeches delivered this morning both by the Mover of the resolution and by the hon. Minister, giving certain very valuable information—facts and figures—which I must admit have gone a great way in enlightening myself and providing information which, I confess, is not easily accessible to the public. In the light, however, of this explanation and information and notwithstanding the fact that I do not make the slightest discount from the information supplied by the hon. Minister, I feel it necessary to press the amendment that I have had the honour to move; and I will shortly give you my reasons why I think it necessary that this entire matter needs to be investigated properly by an independent Committee of Experts (An Honourable Member: Not a Commission?) Committee or Commission does not matter—appointed by Government, and reporting within a very short space of time so that all the aspects of this matter, economic as well as other aspects, may be investigated and considered, costs and returns examined and recommendations made according to which the most equitable, the most efficient and the most economic arrangements can be made.

Taking that view, I think the first thing the House should recognize is this: that Air Transport is a war baby. It was conceived during the first war, delivered soon after, and all through its growth, its adolescence and even its maturity today, it has not ceased to suffer from the pains of delivery which attended it during the war time, both thirtyfive years ago and ten years ago. As it was a war child, it was certainly one in the bringing up of whom there was no regard paid to what we call "economic considerations." Cost was no consideration at that time when the very existence of the warring countries depended upon the efficient and rapid growth of this new arm of warfare.

Though after the war the enterprise was continued and developed for civilian purposes in this country, that came somewhat later; and it came in a very haphazard and straggling manner, without any proper coordination, without any proper examination of the internal economics of that industry. Hence, if I may venture to say so, it even now suffers from many of the weaknesses that attended its birth and growth in the early years.

The campaign of calumny to which the hon. Minister has referred in replying to the charges that are urged against him or his Ministry in this matter particularly has no place in the suggestion I am making for an all-over, all-

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The Assembly reassembled after Lunch at Thirty-five Minutes past Two of the Clock, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

Prof. K. T. Shah: Sir, I have listened with the utmost attention to the speeches delivered this morning both by the Mover of the resolution and by the hon. Minister, giving certain very valuable information—facts and figures—which I must admit have gone a great way in enlightening myself and providing information which, I confess, is not easily accessible to the public. In the light, however, of this explanation and information and notwithstanding the fact that I do not make the slightest discount from the information supplied by the hon. Minister, I feel it necessary to press the amendment that I have had the honour to move; and I will shortly give you my reasons why I think it necessary that this entire matter needs to be investigated properly by an independent Committee of Experts (*An Honourable Member:* Not a Commission?) Committee or Commission does not matter—appointed by Government, and reporting within a very short space of time so that all the aspects of this matter, economic as well as other aspects, may be investigated and considered, costs and returns examined and recommendations made according to which the most equitable, the most efficient and the most economic arrangements can be made.

Taking that view, I think the first thing the House should recognize is this: that Air Transport is a war baby. It was conceived during the first war, delivered soon after, and all through its growth, its adolescence and even its maturity today, it has not ceased to suffer from the pains of delivery which attended it during the war time, both thirtyfive years ago and ten years ago. As it was a war child, it was certainly one in the bringing up of whom there was no regard paid to what we call "economic considerations." Cost was no consideration at that time when the very existence of the warring countries depended upon the efficient and rapid growth of this new arm of warfare.

Though after the war the enterprise was continued and developed for civilian purposes in this country, that came somewhat later; and it came in a very haphazard and straggling manner, without any proper coordination, without any proper examination of the internal economics of that industry. Hence, if I may venture to say so, it even now suffers from many of the weaknesses that attended its birth and growth in the early years.

The campaign of calumny to which the hon. Minister has referred in replying to the charges that are urged against him or his Ministry in this matter particularly has no place in the suggestion I am making for an all-over, all-

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round investigation and consideration of this whole question, not merely from the standpoint of the Night Air Mail Service but from the entire standpoint of aviation in general. I consider the Government's difficulty lies in the peculiar origin and consequent characteristics of this form of transport; and until we go to the root of the matter, we shall not be able to provide more than mere palliatives.

This country, like any other, which wants to exist as an independent sovereign nation, now-a-days in the world as it is today, cannot afford to overlook the necessity of having an adequate Air Service within the country, if only for considerations of national security and defence in times of emergency. Modern transport agencies cannot be looked upon merely as commercial transports. It is for that reason that most countries which have developed their air enterprise so far have found it necessary to subsidise it in one way or another, and conduct it with direct or indirect subsidies. At a pinch, therefore, it could be converted into a good auxiliary and even a direct method of carrying on warfare for ensuring the nation's security.

Taking that view, I think, that it would be the best course to adopt that this should be exclusively, like the Navy or the Army, a government venture altogether. The nationalisation of air transportation, like that of railway transportation, should, I for one hold, have been from the start a public enterprise, owned, manned and controlled as a government enterprise. Then there would have been no vested interests of private owners, no spectacle of companies fighting against themselves with cut-throat competition, no necessity for the campaign of calumny to which the hon. Minister has referred, no occasion for insinuations of the type that have been made, there would have been greater cleanliness in public life as well as efficiency in public enterprise.

Unfortunately, however, Government themselves decided, I think it was two years ago or more, against nationalisation of air transportation. Hence, it is that they are themselves facing the consequences of allowing fattened private enterprise to grow which, if it cannot get satisfactory terms for itself, will necessarily prey upon the public, and, if not in direct ways in indirect ways, of forcing subsidies or concessions or direct gifts from Government from the public purse. At bottom, as far as I can see, this is a quarrel between commercial competitors, some of whom have succeeded in gaining concessions, some of whom have not succeeded. And those who have not succeeded are imposing their heart-burnings upon the innocent heads of those in authority for one reason or another.

I hold no brief, Sir, for either the companies concerned, or even, may I say it without any offence, for the Minister as I find he is a stalwart who can bear his woes himself and answer them himself. But I am pained to say that so far as the public interest as a whole is concerned, so far as the national security is concerned, so far as the utilisation of an efficient air service existing in the country, for not only the civil needs of the country, but also for defence, is concerned, here is a matter arrived at a stage at which I think it very badly needs careful consideration and investigation in all its aspects, and that too by independent experts, so that there should be no occasion afterwards of mud-sling upon anybody, either upon the authority or upon those who are concerned otherwise.

As a rule I am not in favour of having outside experts to help us in the task of carrying our burdens. Here is a case, however, in which I think the exception should prove the rule. For reasons I have just hinted at, it would be best to have independent outside experts, unconcerned with either the one company or the other set of companies, or even with the Government, who can, from their own rich experience of working such enterprise, give you objective reasons for holding this view or that; and, taking a long-range view of the needs of the

country, of the possibilities of this enterprise, of the costs involved, of the potentialities for the growth of this enterprise, of savings that can be made, to make concrete recommendations upon which we can base a much more comprehensive and ensuring policy.

This should not, I repeat, be treated as just an *ad hoc* passing emergency, a mere quarrel between parties concerned, a mere matter of the public campaigning against particular individuals. It is a matter of vital importance to the country as a whole, not only in ordinary times but in times of emergency, as we had a very good example and experience some two years ago. With this experience before us, with this knowledge of the possibilities of utilising air ports, I think we must not overlook this opportunity to secure the best possible expert advice at this stage, and base our policy accordingly on developing on the soundest possible lines our air transportation, which is inevitable and indispensable for both the economic and the defence needs of the country.

I know that there is a definite limit beyond which air service cannot expand in ordinary times in a country like this, and cannot be popular in the mass sense of the term. It will remain, as far ahead as this generation can see, a luxury service. Even if you have fares corresponding to the I class fare, that too, as the Minister concerned with the Railways will tell you, as the Railway Administration Reports tell you, will be hardly utilised by perhaps one-fifth of the population of this country, if even as much as that. The maximum economy that we are told is possible today is perhaps air fares 10 or 12½ per cent. more than the I class railway fare of today. Even that is higher than it used to be some years ago. Taking that as a likely possibility of the ultimate development and potential development of this enterprise, we must recognise the limitations within which all economies that we can possibly effect can be effected. After all, a very considerable portion of the capital costs involved in providing and working an air service is supplied free of cost by the State in constructing its aerodromes, in providing certain equipment, in providing weather stations, radio stations, and so on. These involved a very considerable outlay on the part of the State. True, the State makes charges for landing, for housing etc. and these are quite considerable if you compare them, for instance, to a ship berthing at a port or to the railway station.

Mr. Deputy-Speaker: The hon. Member has got two minutes more in which to conclude.

Prof. K. T. Shah: I am very sorry, Sir, if that is the time, I cannot finish all the points meant to deal with in this amendment. I have nothing more to say but to repeat the necessity of having an over all examination of this industry. I trust that it would not be anybody's intention so to handle this problem as to weaken the existing companies, so to work this concession of a mail service as to impoverish existing enterprises and then buy them out as it were for the State, because that would be not ethically just, economically sound, or politically wise.

I commend my motion to the House.

The Honourable Shri Jawaharlal Nehru (Prime Minister and Minister of External Affairs): I have just been listening to what my hon. colleague Prof. Shah has said. With a very great deal of the general propositions that he has laid down I am in complete agreement. Indeed, I don't see how anyone in this House can't agree with those general propositions that air services are essential in a modern country, essential from both the civil and the military point of view, therefore air services should be based on a strong foundation therefore every care should be taken that they grow up on this foundation and therefore that the best advice, independent advice, should be taken so that we may not fall into error.

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Now, all these are I take it admitted facts. Unfortunately, the way this motion has been brought forward in this House and some of the arguments advanced have hardly been on that high level of principle but have referred to all kinds of controversies and insinuations and the result with the result that consideration of this vital principle has been shifted from that plane of principle to detail; and not only detail, but to personal accusation which is unfortunate because that somehow hides the main facts.

The motion itself, asking for the stoppage of the night airmail system, we cannot accept because we think the night airmail system is good for obvious reasons. But that does not mean that we are satisfied with everything in the night airmail system or that we are not prepared to inquire into this or that or to improve it or to find out what are the errors. But to say that it should be abolished forthwith seems to me to ignore all the realities of the situation and to proceed perhaps on some particular aspect which cannot be isolated from the others. So we cannot accept that motion. Nor can we accept the amendment that has been moved in this particular context and also because we think that the particular type of enquiry that Prof. Shah has suggested would be a long distance thing, would be a big thing. It may be that some time later we may have that enquiry but at the present moment and in the present context it would have an entirely different meaning even from what Prof. Shah intends to have.

It is obvious that the development of civil air services, just like the development of military air transport, is a highly technical and a highly difficult phenomenon. It is not, if I may say so, as easy as setting up a factory for the production of something. It requires a great deal of preparation, a great deal of training for the individual, both as an individual pilot but even more so on the organisational side. It is easy enough for any party to buy half a dozen aircraft—Dakotas or any others—and start an air service with them hiring pilots and the rest. But that is not the way to lay the foundation of an air service. It is possible that some money may be made for the time being because the capital cost involved was little. If we have to build an air service, it has to be on much surer and sounder foundations as indeed the air services of all the other countries have done. They have to have aircraft which does not last too long as technical changes take place quickly. All kinds of safety precautions have to be taken; we cannot take risks. Therefore, because of this element of danger one has to spend much time on the training on the safety side than normally one would in any other technical factory or elsewhere. One has to prepare for all kinds of contingencies, even the contingency of your aircraft becoming obsolete fairly soon. And this can only be done by a Government or any authority taking the best possible advice and the best possible independent advice, I agree with Prof. Shah. It is not quite enough to have the advice of those people who themselves operate because they have a certain set of views on the subject, they go on repeating them. Therefore, they have to be checked by other advice too. The unfortunate part in regard to this resolution is that I felt as I was listening that it has almost appeared that there was a dispute and the Government was a party to the dispute, or the Ministry of Communications was a party to that dispute. I do repudiate that and I do want to remove any such charge. The Government may make a mistake, the Ministry of Communications may or may not, but it is our duty to be above these party wranglings and to take advice, our own technical advice, independent advice, and to decide impartially, objectively, as to what is to be done from the point of view of the air services of the country. I would beg the House not to consider this as a matter in which Government or the Communications Ministry is a party to a dispute, but rather as a matter in which there are—let us put it at the highest—differences of opinion. It is for Government to consider every single point,

allegation or charge—whatever you call it—that has been made, and take independent advice of its own people and others and then come to a decision. It may be that at a later stage some such course as the one suggested by Prof. Shah, not in regard to present happenings but in regard to the future development of our air service, industry etc. might be considered by a committee or commission which Government may appoint. At the present moment, if you think in terms of a committee or commission, it simply means you are directing your attention to certain existing difficulties and throwing that larger aspect into the background.

Prof. Shah mentioned the desirability of nationalisation and State control of the civil air services. There is hardly a single member of the House who is opposed to that idea. The point is one of practicability and feasibility, of what we can do and when we can do it. Prof. Shah was incorrect in saying that Government "decided" two or three years ago that there should be no nationalisation. There is no "decision" this way or that way. I believe a Committee was appointed about three years ago—some kind of an Enquiry Committee—and it presented some kind of an interim report. The Government did not come to any conclusion on that. But it is a fact that apart from any formal conclusion by Government, they have considered this matter on several occasions and felt that, on grounds of feasibility and practicability, it was not desirable for any general scheme of nationalisation to be given effect to. It would have been a very expensive thing for one thing. The mere cost side was heavy. There were other considerations too. From the point of view of personnel, training and the rest there were difficulties. It was then that we decided in regard to this Air India International that it should be a mixed concern with Government capital and capital of a private company and that the running of it should be left to the company, to their expert personnel whom they have trained. Now, why did we do that? It was because really there was no choice. We the Government could not have done it, unless we sat down for a number of years to train up and prepare people. A private company may or may not have done it, I do not know. They might have done it by themselves.

The starting of an international air line was a big undertaking. It was an infinitely bigger undertaking than the starting of an airline inside the country.

3 P. M. It is not only quantitatively bigger but it is qualitatively different. It competes with all kinds of international airlines. It involves far more serious risks and dangers. Therefore, it requires the highest type of training, pilots and organisational skill. I may inform the House from such knowledge as I have gathered in my various journeys abroad in the course of the last year—and I have travelled about half a dozen times to Europe by Air India International and I have met people who have travelled by other lines too—first of all, I gathered there was a feeling of surprise among people belonging to other International Air Companies, British, American etc. that an Indian international line had come in and succeeded. They had thought that it was a highly technical, highly complicated and difficult thing. They themselves had experience of it. So they expected that any Indian attempt would be a failure. But when it came up and it succeeded, they were surprised, and sometimes perhaps a little disappointed.

The fact of the matter is I know nothing about the financial side, whether the charges are too high or too low or the overheads are excessive. That I do not know. It is a matter for enquiry. I am merely speaking from the point of view of the service rendered. There is no doubt that there is a general impression, whether you go to England or America, among the air travelling public that Air India International is in the top rank of international air services. Whether it is from the point of view of comfort, from the point of view of efficiency, of punctuality or of general courtesy, it is top ranking. Now, that could not come about without the most careful preparation and just as any

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kind of operation, whether it is military or civil on a big scale, it requires the greatest staff work behind it. A little over a year or a year and a quarter ago, the Hyderabad operation took place. It went like clockwork and on the fourth day the whole thing was over. Well, there was not very much fighting, but perhaps the House does not realise what months of intensive preparation were involved in it. Hon. Members who were sometimes a little impatient and asked "Why is this not being done, why is that not being done?" did not realise that all that time the most intensive and careful preparation was going on. If the House could see—I do not know what it is technically called—the list of directions as they grew, it was about that fact, all printed and confidential. Every little button was thought of. Every single step as to where somebody should arrive and somebody should leave was planned. Thus, when the operations started, they went like clockwork. Because it was so efficiently arranged, a large number of lives were saved, damage to buildings averted. One does not know what the consequences would have been if there was delay in anything. So, any big undertaking requires a great deal of staff work and preparation; otherwise, if some little thing goes wrong the consequences may be serious. You may perhaps afford to see something go wrong when you are on hard ground, but if something goes wrong when you are far up in the air, it has more serious consequences. So one has to take even more precautions about that. This first Indian international air service was started after years and years of preparation and calculation. I am not talking about the financial aspect. It entailed many visits abroad, in America, in England, to see how other services were built up. So it was a success from the running point of view. As to whether it is more expensive or not, I do not know. It is for experts to consider and advise us. But this service is something of which India can be legitimately proud, not only because it is a good service but because it has added to India's credit very greatly; it has proved that we can undertake big things and carry them on in spite of the greatest competition.

As I said, I do not know exactly whether the overhead charges of one concern are more or less. But I must say that when I see this large sum that we have paid which has been incurred as loss, I am alarmed at it. It seems big, and it should be enquired into why it is so big and if it can be reduced. All that should be done by our financial and other experts. Undoubtedly, it should be done. Nevertheless, the fact should be remembered that in the first year or may be two years of the working of a big undertaking, all kinds of expenses come in which normally would not continue after a couple of years. Secondly also, in a matter of this kind almost every country, when it has tried to expand its air services, has had to subsidise them. It is not a new thing. If we want to do it, undoubtedly we shall have to subsidise them to some extent, obviously within the limits of capacity, but we have nevertheless to subsidise them both from the point of view of civil aviation and also as a standby in case of military or other special requirements. For my part, I would not at all like the development of a monopoly in India, unless ultimately the monopoly may be the monopoly of the State, which is a different matter. But I would not personally like any single company monopolising anything. Of course, we cannot impose efficiency on every company, as we cannot impose anything else. But a Government should try to encourage as many good services as possible. Good I said, because encouraging of many services may result in not only standards coming down but also in too severe a competition between them which may lead to their disruption and lack of success.

Now, may I, therefore, sum up and inform the House that so far as Government is concerned, we do not accept this resolution. Nor do we want to accept the amendments. But we propose to pay the greatest attention to everything

that hon. Members have said in this House and to look into this matter again and again.

In fact only yesterday—quite independently of this resolution, it had nothing to do with it—there was a meeting of the Scientific Co-ordination Committee which coordinates all scientific activities of the various Ministries and Departments of Government. Several Ministries, like Food, Health, Agriculture and Defence, have got Scientific Advisory Committees. We found that these Scientific Advisory Committees were functioning separately and independently of each other, as indeed unfortunately many of our activities are still carried on in various Ministries, sometimes one Ministry not knowing everything that the other Ministry does. So also, our scientific activities were not properly co-ordinated. Last year we formed a Scientific Co-ordination Committee to bring the work of these various committees together. There was a meeting yesterday—the usual monthly meeting—of the Scientific Co-ordination Committee and they considered the various scientific types of work that are being done and co-ordinated as far as possible. We were considering each Ministry separately and we found that there was no independent advisory committee for the Ministry of Communications, either in regard to posts and telegraphs or in regard to communications. They are separate subjects, of course, and you cannot have one committee for both. Similarly, there were no committees in regard to one or two other Ministries as well. So, it was recommended to me as Prime Minister that there should be an advisory committee of independent experts in regard to the air services for one, and in regard to one or two other subjects separately. The Committee will naturally consist of representatives, I imagine, of the Hindustan Aircrafts, of the Aeronautical Society, of the R.I.A.F., of the Ministry of Communications and may be one or two others, who would also take advice from others, if necessary. That recommendation is before me and presumably it will be given effect to fairly soon. But apart from that we are sufficiently alive to the fact that the air services in India should be developed with the greatest possible care, and I would say with independent advice, because it is too risky a matter not only financially, but also otherwise and we dare not go ahead without as much assurance and surety as possible about the future. Otherwise danger may confront us and the whole thing may crack. I may, however, assure the House that we do intend to take every possible step to foster the air services in India.

Shri M. R. Masani (Bombay: General): Sir, I am sure the House is grateful to the Prime Minister for his very constructive approach to the subject and, if I may say so, for raising the level of the debate from the low level to which it had sunk in the course of this morning's proceedings. I, Sir, shall certainly respond to his excellent suggestion that we should discuss this matter free of personalities, insinuations and invective on any side whatsoever.

As hon. Members are aware, there has been a controversy, not only a whispering campaign as the hon. Minister said, but a shouting, raging and tearing campaign,—a very unfortunate one I think—in the press in which both sides have indulged and the hon. Minister repeated his side of the case again this morning. I, Sir, have no desire to join in that controversy or to carry it any further. I do not think it serves any purpose. We here have to take a broad national view and to consider the implications of the night air mail services on the development of this nascent industry which in a few years has made such wonderful progress and about which we can hold our heads high. Let us also not forget that when we discuss the night flying or civil aviation in general, there is another aspect which is important and that is the defence aspect which is apt to be overlooked. Civil aviation is in a way the second line of defence for the air arm of this country and, therefore, while I appreciate the fact that my friend Mr. Rohini Kumar Chaudhuri has served a public purpose in raising a discussion on this matter, I for one would not find myself in agreement with

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his proposition that night flying of mails and passengers should be abolished altogether. I think night flying is a thing that the country will have to go in for in a proper way. To stop night flying altogether because the present scheme may have its defects would be like throwing the baby out with the bathwater. We want to preserve the night flying of mails, passengers and freight, but we want to do it free from the disadvantages and the handicaps which the present scheme, the industry claims, imposes on it.

The Prime Minister, Sir, has made another contribution by showing us that night flying is not a thing that can be isolated, as he put it, from the broader problem of civil aviation and I think we cannot do better than consider the general position of the industry, against the background of which any scheme of night flying today or tomorrow has to be considered.

Now, what is the general position of the Industry in India today? It is on record that within the last twelve months two companies have gone into liquidation and one other suspended operation for a while. I am afraid the best information seems to me that one or two other companies may soon find themselves in a similar unfortunate position. Now there are eight companies, as far as I am aware, functioning in the field today and I would like to draw the attention of the House to the state of these eight concerns which form this industry. The published figures in the latest annual reports of these concerns show—I shall not give names, but shall just refer to the three or four leading companies—that they are not in too happy a state.

The first company has made an accumulated loss of Rs. 21½ lakhs, out of a paid up capital of Rs. 90 lakhs. The second company has made an accumulated loss of Rs. 19½ lakhs out of a paid up capital of Rs. 82 lakhs. A third company, to which the hon. Minister referred this morning, shows at the end of the calendar year 1948 a loss of Rs. 4 lakhs out of a capital of Rs. 50 lakhs, but its own annual report states that during the year 1949 it expects to make a loss of Rs. 15 lakhs, a fact which the hon. Minister did not mention to complete the picture. The fourth service made a profit in 1948 of Rs. 4 lakhs—that was another company the hon. Minister referred to—but I find from the Auditors' report that adequate depreciation has not been allowed for, with the result that even the tiny profit that it has shown is an inflated one on account of inadequate provision for depreciation. The biggest air line of the land, which has been making a profit in the past years expects to lose in this current year over Rs. 25 lakhs.

That is the grim picture of the industry as a whole and I do not think any one of us, whatever view we may hold on the present night air mail scheme, can view it with equanimity. I am sure the Government cannot do so and does not do so. These figures indicate that there is great substance in the claim made by the industry that it is operating under heavy losses and that it is unable to provide adequate depreciation. Now, Sir, this morning some light-hearted allusions were made to the effect that depreciation need not be provided for at such a high percentage. I do not want to go into the technical aspects of the matter for which I am not more competent than any other member here, but the fact remains that the aircraft industry, the aviation industry, is an industry where particularly rapid replacement of planes and parts becomes necessary. One cannot discuss depreciation as one does it in the case of a textile mill or a steel works. Therefore we must be prepared for heavy depreciation or replacement. Now, in their present plight, it would be futile to expect the existing concerns to replace their planes, which are in danger of being out-dated with new planes. That is why the position of the industry can be considered as a serious, a very serious one.

The real issue that is before the House—although we are discussing a limited aspect of it—is this: what is the economic rate at which air transit in this

country is possible? I raise that issue, that fundamental issue, on which some kind of expert, impartial verdict is called for. On this question, the Government in the Ministry of Communications and the Industry hold views at variance. The industry claims—rightly or wrongly—that there is a large increase in the cost of operations, both in wages and dearness allowance and in the cost of materials such as spare parts, petrol and so on, prices of which have gone up, and this is aggravated by the devaluation of the rupee. I am aware that the hon. Minister very kindly tried to meet the difficulties of the industry some months ago by giving a rebate of 9 annas on a gallon of petrol. But, unfortunately, Sir, the whole of that and a little more has been eaten up by the rise in the price of petrol itself. First of all there is an initial rise of 3 annas per gallon in the price of petrol and then there is the provincial sales tax of two annas per gallon. Then on top of these, on 1st November, devaluation brought in a further rise of 5½ annas per gallon as against the rebate or relief which the Government intended to give of nine annas. Their intention has been completely frustrated and more than frustrated by a ten and a quarter annas increase which they are paying today per gallon of petrol.

An Honourable Member: Is the provincial sales tax a new charge?

Shri M. R. Masani: Now, is the level of fares prevailing today high or low when compared with the level in other parts of the world? I would give the fares for U.S. and continental services and compare them with the fares here. You will see from this that the Indian industry is running at an operating cost below those of highly developed and technically advanced countries like America—an achievement of which we should be proud. The fares in Europe are high. The schedule for fares in the United States corresponds to 6 cent per mile—equal to 4½ annas per mile against that recently fixed by the Licensing Board for this country of a maximum of four annas a mile and a minimum of three annas.

The Honourable Mr. Rafi Ahmad Kidwai: They can raise it higher or reduce it with the permission of the Board.

Shri M. R. Masani: But for the present, the prevailing rate is a minimum of three annas and a maximum of four annas. Therefore, every Air Service in India, notwithstanding the handicaps as compared with their American counterpart, must run its service at a cost lower than that charged by the Air Services in America. For mail planes the same factor applies. Here the rate per mile for passengers is 2½ annas. That is only made possible because of the practical monopoly for carrying mails given to this one company. You will find that in the United States the rate is higher. Sir, may I with your permission read an extract from the *aviation week* of September 12, 1949, giving the state of affairs in regard to this matter in the United States? This is what the above weekly says:

"Limits within which the certified domestic air lines may offer air coach & second-class rates as it were—'first-of-the-week family fares and other promotional traffics during the coming year were outlined last week—that is the beginning of September—'by the Civil Aeronautics Board—an independent Board which fixes the rates in that country. Four-cents-a-mile coach service conducted with 21 to 24 passenger DC-3s—the Dakotas—'probably cannot be successful unless it shows a load factor in excess of 85 per cent—a figure unlikely to be attained over an extended period. Accordingly the Board said it would not grant approval beyond September 30 to TWA's DC-3 coach service between Kansas City and Los Angeles or Continental Air Lines' cut-rate DC-3 operation between Kansas City and Denver."

What is the meaning of this? It means that when certain air-lines wanted to go in for a wage-cut or cut-throat competition, the Regional Board in the United States, only two months ago, prohibited them from doing so. We in our country are running a 2½ night service because there is the monopoly.

Shri K. Hanumanthaiya (Mysore State): Would you kindly give us a comparative statement of the wages of pilots, crew and staff of the air companies in India and in the United States?

Shri M. R. Masani: If I were a Cabinet Minister, I would 'have said: 'I would like to have notice of the question.' But I cannot help saying that our pilots and technical personnel are more highly paid than any other branch of labour in this country. Therefore hon. Members may not be led away with the impression that they are paid ordinary unskilled or skilled wages prevailing in this country. I mentioned these facts to show that it cannot possibly be alleged that the overhead charges here are very high or higher than that in other countries. On the contrary, it would appear that there is a *prima facie* case for the industry to make out that they are being made to work at uneconomic rates. (*Prof. N. G. Ranga:* Question) I am glad Prof. Ranga questions, but who is to decide? I am glad the hon. the Prime Minister has considered the scientific and expert side of the question with some kind of scientific approach to this problem and is referring the matter to some expert agency to see that whatever help is possible is given to this infant industry. But normally what happens is that when an industry in this country feels that owing to competition it cannot sell at the prevailing rates or prices, the question is invariably referred by Government—this has been the practice for 25 years—to the Tariff Board and not to a Branch of its Ministry. The Tariff Board then goes into the affairs of the industry, whether it is textile, sugar, paper, steel, chemicals or what not. Only a few months ago the cases of soda ash and caustic soda production were referred to the Tariff Board. Similarly the case of this industry should be referred to a specially appointed Board. There is no reason why a manufacturing industry should have the right to have its affairs investigated by an independent tribunal and not a public utility branch. I fail to see any distinction so far as the merits of the two cases are concerned. Just as a manufacturing industry offers to place its affairs for scrutiny by those outside its ranks, there is no reason why a similar independent body should not look into the affairs of a public utility service. They should be looked into by those who are competent and scientifically equipped to judge the affairs of the industry. Therefore, although I do not support the amendment of Professor Shah, I feel that we should ask Government to consider this constructive suggestion for an investigation into the affairs of the industry.

Shri Mohan Lal Gautam: Sir, I have heard both sides of the case, both on behalf of the industry, and the Government. I, as one who is connected with neither, and who belongs to that class which is required to pay millions and millions of rupees to this industry, have come to the conclusion that there is something wrong somewhere. My simple question is, is this Government which is giving forty to fifty lakhs of rupees as petrol-tax refund to this industry and something by way of charges for carrying mails, making the best use of this money? If this industry is not utilising the money that is being paid to it properly, then what is the position? Why is the taxpayer taxed and this money wasted? If you say that these subsidies are meant to develop this industry, then I fail to understand why it has not developed. I have not succeeded in understanding it in spite of the attention that I paid to the speech of the honourable Minister. He has not proved the case that under his supervision with the subsidy that this industry has been paid by the taxpayer, the industry has developed. The figures that my friend, Shri Masani, has given prove that the industry is not in a good condition.

An Honourable Member: Therefore you kick it.

Shri Mohan Lal Gautam: You may kick it or finish it, but you have no business and this Government has no business to pay forty or fifty lakhs of rupees to an industry which is wasting. That is my conclusion. You allow this industry to be run absolutely privately and leave them alone, do not pay a single pie, and let them kill each other by cut-throat competition. I do not mind it. My grievance is that this Government is charging the taxpayer fifty or sixty lakhs of rupees and paying it to this losing industry. That is

what I want the Government to appreciate. Sir, I want this industry to be protected.

Shrimati Renuka Ray (West Bengal: General): It should be nationalised.

Shri Mohan Lal Gautam: I want this industry to be protected but it does not necessarily mean that it should be in private hands. It does not mean that. I was one of those who supported and would still support the hon. Minister when he said that this industry must be nationalised. I do not know what has happened to his declaration

The Honourable Mr. Rafi Ahmad Kidwai: When was that declaration made?

Shri Mohan Lal Gautam: I had a talk with the hon. Minister himself and he told me himself that he wants to nationalise it.

The Honourable Mr. Rafi Ahmad Kidwai: That was not a declaration.

Shri Mohan Lal Gautam: That I do not know.

Mr. Deputy-Speaker: Probably the Member was canvassing public opinion regarding that.

Shri Mohan Lal Gautam: It was nearly two years ago. My friends want the industry to thrive, but there ought to be a way out of it. I have found from the statement of the hon. Minister and from the speeches that have been made by some of my hon. friends that the whole thing is not pulling on well. The Minister finds it difficult to control the industry, to run the industry in his own way. So he has changed the Board from an autonomous Board into an official Board. I do not know what this independent autonomous body is. When I look at it, I find it difficult to see that this is an autonomous Board. It is presided over by a man who is connected with the industry again. It is presided over by Mr. Bewoor.

The Honourable Mr. Rafi Ahmad Kidwai: Who told you?

Shri Khurshed Lal (Deputy Minister of Communications): He is not a Member of any Board so far as I know.

Shri Mohan Lal Gautam: He calls himself an Adviser of Tatas.

Shri Khurshed Lal: Tatas are not an official Board.

Shri R. K. Sidhva: He is mixing up his ex-D.G.'s position.

Mr. Deputy-Speaker: The hon. Member may be allowed to continue without interruption.

Shri Mohan Lal Gautam: I do not know how this Board was functioning. It is relevant to ask what, if the Ministry wanted to change the character of the Board, it should have come straight to us and should not have proceeded with it in an indirect way.

The Honourable Mr. Rafi Ahmad Kidwai: It has come straight to you.

Shri Khurshed Lal: The Board was constituted under the Indian Aircraft Rules and those rules were duly changed in the manner provided in the Act. There is no question of hanky-panky about it.

Mr. Deputy-Speaker: The hon. Member is evidently under the impression that some person who is employed by Tatas is on this Board.

Shri Mohan Lal Gautam: I am not under any misapprehension about it, because I know that on this Board, as it is at present constituted, there are only three Government officials on it and not representative of Tatas or Birlas. That is quite clear to me. But my difficulty is that the way in which things are being done does not help the industry to develop.

Shri Ramnath Goenka (Madras: General): What is your concrete suggestion?

Shri Mohan Lal Gautam: My concrete suggestion is very simple. The Government has failed in its duty to nationalise this industry. It should have been nationalised. It should not have been allowed to be in the hands of private enterprise. My suggestion is that the whole thing must be consolidated as one unit and the Government must have full control over it. If you are not prepared to do it, you are playing with the money that is being paid to you by the taxpayer. This is not only an industry like the other industries. It is a very vital industry.

Mr. Deputy-Speaker: May I remind the hon. Member that we are on the much narrower issue whether the night air mail service should be withdrawn or not.

Dr. P. S. Deshmukh: It was the Prime Minister who widened the scope of the discussion.

Mr. Deputy-Speaker: To some extent every hon. Member is widening it.

Shri B. L. Sondhi: Having allowed it once, you cannot stop it now.

Shri Mohan Lal Gautam: I think it is very difficult for me to separate night-flying and civil aviation as a whole, and if it is asked of me to limit the scope, then I will not be able to follow the instructions of the Prime Minister. I will have to go into details which may not be palatable to so many of us. Therefore I am trying to raise the level.

Dr. P. S. Deshmukh: Quite right, raise it sky high.

Shri Mohan Lal Gautam: I do not want to attack one side or the other and especially when people are not in a position to defend themselves.

Dr. P. S. Deshmukh: The Minister is the only person here. So you must attack him.

Shri Mohan Lal Gautam: Sir, I think it is my duty to attack the Government primarily because they are responsible to us and they have to control the whole thing; we have given the reins in their hands of the entire country and if the country goes wrong and if the industry goes wrong, they have to control them and if they are not able to control them, we have a right to attack them and it is through them that I can attack the industry and everybody else. Therefore, I would request the hon. Minister to ponder over this whole thing, to think of the whole thing as such. This industry as I say is a vital one. It is the second line of defence and unless we develop it, we cannot count ourselves amongst the strong nations which claim to be strong enough to defend themselves. We are not yet out of the woods; we may have to fight our battles any moment, we do not know when and where. Therefore, Sir, at this stage not to pay attention and not to make this industry strong would be playing with the fate of the country and therefore, I say, Sir, that we have to look into the matter from this point of view whether every penny that we are spending on it, whether every penny that this country is spending on buying planes, on buying the spare parts, on buying petrol, is not wasted and whether we are making the best use of every rupee and every anna and every pie. I submit, Sir, after hearing the speeches, I have come to the conclusion that we are not. I would be glad if I prove to be wrong. I have definitely come to the conclusion that the money of the country is being wasted in buying planes, in unnecessary competition, in unnecessary wasting of petrol and all that. I want a way out of it and the Ministry has to find a way out of it. We cannot afford to buy petrol and spend it uselessly. We cannot afford to do it. My hon. friend, the Finance Minister, who is always trying to find

some money to be saved, if he finds that this money is unnecessarily going out of this country, it is his duty also to see that the money is not wasted like this. Therefore, my submission is that the whole thing, as I understand, is going wrong. There is something wrong somewhere. I am not here to apportion blame, but I think a way must be found and every effort must be made to make the best use of the money that we are spending, to make civil aviation strong and not to allow these companies to fight amongst themselves and weaken the country which may prove to be detrimental to the best interests of all of us.

Shri E. K. Sidhva: Sir, as you rightly stated, this motion relates to the air night service only and I shall confine my remarks to night air mail service. As I said I shall confine myself to that in a restricted form only. My hon. friend, Shri Rohini Kumar Chaudhuri, in the morning while representing the case of the industry, I am sure after hearing the hon. Minister's speech, would have been surely convinced that the arguments that he advanced were not correct. The night air service, Sir, let me tell you, has become popular.

Sjt. Rohini Kumar Chaudhuri: Question.

Shrimati Renuka Ray: Why?

Shri E. K. Sidhva: I am coming to the 'Why'. The hon. Minister has given figures and facts but from the people's point of view I am going to tell you, Sir, that it was never expected that the service from the passengers' point of view will be popular, leave aside the mails and it has become more popular from the passengers' point of view than the air mail. Sir, whenever I travelled from Bombay and Delhi, I used to travel by Air India. I thought that I must travel by night service also because without travelling I could not get first-hand information and experience, and I did travel. Sir, after the introduction of this night service at the end of October and although when I travelled from Delhi to Nagpur the aircraft had no chairs but benches. I was first of all nonplussed when I did not find the usual chairs there and I took a blanket and made myself comfortable on the benches and let me tell you that I had two hours sound sleep. I find that the passengers desire that the chairs should be installed instead of the benches and I am told, Sir, that is being renovated in our Hindustan Air Craft because I wrote to the Honourable Minister my experience of this service immediately after the journey.

As regards the air-mail, the Honourable Minister at the last Budget Session is committed to this House by increasing the postal fares from 6 pies to 9 pies a post-card and from one and a half annas to two on covers and you know very well, Sir, how the House was opposed to it but still we agreed to it because he definitely stated that all mails wherever aerodromes exist, will be carried by this night air-mail service and the fact remains that we are paying—I do not know what the total amount of that revenue will be—and it will be a very good sum, which the Government will be recovering from this additional postal revenue and I do not desire, therefore, that there should be any breach of promise on the part of the Government to stop this service. If they at all contemplate doing it at any stage. Either they have to come back to the original postal stamps, six pies and one and a half annas, if they want to close down this or they shall have to retain and improve the service if there is any defect in it. (*Shri B. L. Sondhi*: The Honourable Minister stated in the morning there was no question between six pies and 2 annas.) I am referring to his budget speech, and if he goes back, we shall take him to task. The fact remains that that was the undertaking given to this House.

As I stated, Sir, in my opinion this night mail service as far as postal service is concerned has come to stay. After reading this controversy while I was in Bombay and Delhi, I have come to the conclusion that there is nothing

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in it except the business rivalry. From the pamphlet that was placed in my hands four days ago by Air India Limited and many other pamphlets, I have seen that it is due to certain competition. I welcome always competition. In the competition a third man is benefited and it is the passengers who are benefited by the competition of these companies; at the same time, I do want to say, Sir, that the efficiency should be maintained. As I stated in my amendment which I have not moved, while this service should be continued from the passengers' point of view, there should be strict vigilance over the security rules and all other rules and regulations which are applicable to the scheduled services and I am sure our Ministry must be quite alert about it. I do not dispute that because it will be a great risk to take, if they deviate from any of the rules that apply to the scheduled services and not to the night air mail service.

The Honourable Mr. Rafi Ahmad Kidwai: That is also a scheduled service.

Shri R. K. Sidhva: Well, I am very glad. These rules are applicable to them but I feel that the people in the night air service are not following strictly the rules imposed on the other scheduled services which operate during the day. I would like the Minister to take note of it and see that the night air mail service becomes popular and that it is made absolutely safe. I am told that the night service is safer than the day service. Experts have told me that. From that point of view I hope it will be seen that this night service is made more and more popular.

My friend Mr. Masani said that nobody is opposed to night service. I am very glad of that. He must in fact be knowing better than me that between London and New York there are 12 planes during the nights only. The night service is not only cheaper but it is also beneficial from the time point of view. Businessmen and public men who have to travel can leave at 11 in the night and arrive by 7 o'clock the following morning. My friend Mr. Rohini Kumar Chaudhuri talked of 11 hours; from 11 to 6-30 does not make eleven hours. At the same time there is a halt of 1½ hours at Nagpur for transshipment of mails. With all this inconvenience the passengers have preferred this service to the ordinary scheduled services.

Shri H. V. Kamath: Not always.

Shri R. K. Sidhva: We tell the Railway Minister that passenger fares should be reduced and today when the Government themselves find a way to reduce the air fares we blame the Government. I do not want the industry to suffer but I must tell my friend Mr. Masani that they must reduce their overhead charges. Unless they do that even the Rs. 175 from Delhi to Bombay will not suffice. He has compared the fares between New York and London. Mr. Hanumanthaiya asked about the wages paid to his labourers but he evaded the issue. You cannot compare our service which is in infancy and our expenses with those of such advanced countries. Every worker in the Ford factory has a motor car for himself. What has my friend Mr. Masani to say to that.

Shri Mohan Lal Gautam: Why a subsidy then?

Shri R. K. Sidhva: My friend Mr. Gautam raises a different issue altogether. By all means have a nationalised service. I have no quarrel. As far as my memory goes back the Communications Department decided for nationalisation of the air service. But there may have been some difficulties in the way. That is a different matter but that is not the issue at the present moment.

I have tried to understand how the Government are involved in this matter. The Government has done something right in relation to the public. They had given 40 lakhs concession on petrol. Mr. Masani pointed out that on the other hand on account of this the cost of petrol has gone up. It has gone up now. The fact remains when this issue was not there they were given Rs. 40 lakhs concession. Despite that they raised the fares from Rs. 150 to Rs. 175 and if there is no competition they will surely raise it to Rs. 200.

The Minister spoke about the depreciation charges. I interrupted him to clear the position. Air India have set aside 33 per cent. for depreciation. Sir, the hon. Member in reply to my question in this House had stated that the life of a new Dakota is eight years. I do not know whether any air line have got secondhand aircraft or new ones. The literature on the subject says that the life of a new aircraft is eight years and if that is so why depreciation for three years. If you carry a sinking fund, a reserve fund and a depreciation fund and at the same time want money from the Government at the cost of the poor taxpayer, I am certainly opposed to it. We do not want to pay the industry at the cost of the taxpayer. They must reduce their overhead charges. I have very great respect for Mr. Tata. I know him personally. His patriotism towards industry cannot be questioned; there can be no two opinions about it. But in this matter he has lost the balance of his mind. He has entered into a competition with a rival and I am very sorry about it. Some insinuations have been made against the Ministry. I have been hearing for six months that the Ministry was somewhat concerned in this and there was some favouritism involved. From the reply of the Honourable Minister let me tell you I have found no basis for these insinuations. It reminded me of another instance. There is some sort of rivalry in Sambhar Lake where our salt factory is and in the trading of bags there has been so much competition that they have involved the officers of the department. The Honourable Minister for Industry and Supply has been receiving letters for a number of months. He appointed some officers to enquire and asked me also as Chairman of the Advisory Committee to find out. From my enquiries I was convinced that although there were some defects the competition among the big merchants involved our officers into charges of corruption. My point is that in this business of rivalry if there was anything that the Ministry had done I would be the last person to support the Honourable Minister.

There is only one point on which I wanted to be clear. The Honourable Minister said in reply to Mr. Rohini Kumar Chaudhuri that this particular company's licence was suspended, because they were charged with smuggling and that they were carrying articles to Pakistan . . .

The Honourable Mr. Rafi Ahmad Kidwai: I did not say that.

Shri R. K. Sidhva: He said smuggling which is a very serious offence. I do not know how far he has enquired into it. I hope the company to whom the contract has been given would not play a similar game with us. That is the only thing I want to be sure of. Otherwise the deal is straight and I strongly support that this service, both from the mail and passenger point of view should be continued.

Shri M. Tirumala Rao (Madras: General): Sir, the Government department has shown greater enthusiasm than discretion in bringing about this night air mail service at such great hurry. They had appointed for themselves a target date and before that date they had made up their mind that this service should be brought into operation. Otherwise I do not see any valid reason why they should have started it early this year and suspended it during the monsoon

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months. Is it going to be suspended for four months during the monsoon every year or has it occurred only this year? They have been carried away by their enthusiasm before ascertaining all the facts and figures and also the handicaps of a night air mail service. They have taken a final decision in the matter without having a proper agency to carry on their plans. They have rushed into this business thus estranging established air services in the country.

Whatever may be said, the commercial air lines are the second line of our national defence. We must be thankful to those people who have put in their capital into this industry and risked large sums of money and thus built up a large number of trained personnel without government aid or assistance . . .

Prof. N. G. Ranga: How can you say that?

Shri M. Tirumala Rao: Government subsidised not from the beginning but only at a later stage . . .

Prof. N. G. Ranga: Yes, from the very beginning.

Shri M. Tirumala Rao: This is a matter which I do not know and I will stand corrected if the honourable Minister will correct me. But I would have been pleased if my hon. friend had given all the names of the companies. Mr. Masani gave us to understand to which company he was referring but did not mention the other companies. He could have taken the House into confidence. Here there are the Tatas, Birlas, Dalmias and I think the Scindias also. These are the four big companies that have started this air service and have given a sort of air service to this country. There is no use blaming them. Nor is it any use for any Government, however strong, to estrange these people and people in the line. There is a lot of literature published in the papers to which the Ministry or the Minister could have given reply publicly, contradicting them. As my honourable friend was saying there was mud-slinging, and when two commercial people quarrel they throw the whole blame on the Government. I would like to ask how far Government have taken sufficient care to see that these services are manned by efficient people. The one that was running it four months ago has gone out of existence—I think it has gone into liquidation. (*An Honourable Member:* No). That is what I saw in the newspapers and newspapers are my only source of information. With regard to this Himalayan Company there seems to be something shady about it. It was under suspension for four months. (*Interruption.*) If I understood the Minister this morning I think it was said they were guilty of some smuggling. All people are guilty of smuggling and blackmarketing for that matter. (*An Honourable Member:* They have not been caught). Therefore how can we say on the floor of this House that they are guilty of smuggling.

The Honourable Mr. Rafi Ahmad Kidwai: That is what Mr. Sidhva said.

Shri R. K. Sidhva: You said 'smuggling' in answer to a question.

The Honourable Mr. Rafi Ahmad Kidwai: I referred to the allegation.

Shri M. Tirumala Rao: Therefore I do not know the previous experience of this Company. It might have come in handy to the Minister who is a determined man with firm ideas and convictions that he would not be fettered by the threats of people in prosecuting his plans. But I would like to know whether he has taken the proper instrument for carrying out his plans, whether the Himalayan Company will stand the test of time and efficiency in carrying out your plans.

With regard to night air service I am not an enthusiast like my friend Mr. Sidhva who wants travel by night at a cheaper rate. After all your life is more valuable than a difference of about Rs. 30 in the fare. Has your night aviation service developed to the extent which it has done in other countries?

The Honourable Mr. Rafi Ahmad Kidwai: Yes.

Shri M. Tirumala Rao: I do not know. From the papers I see that you are equipping certain aerodromes where all these air mails are cleared for these eight services. But suppose there is a shortage of petrol or there is engine trouble or something happens between here and Nagpur, is there a possibility of these planes having a safe belly-landing during night?

Shri Khurshed Lal: I may inform my friend that in addition to the port at Nagpur there are intermediate ports fitted with all facilities for forced landings.

Shri H. V. Kamath: Between Calcutta and Nagpur there is only one aerodrome properly illuminated at night and there are few radio stations.

Shri R. K. Sidhva: But that is sufficient from his point of view.

Shri Khurshed Lal: Not from my point of view. It is a question of things being sufficient from the point of view of technical people who know the job.

Shri H. V. Kamath: The other's know better than the Honourable Minister!

Shri Mohan Lal Gautam: If the Ministry or the Minister were to make further investigation in this matter then the Minister ought to revise his opinion.

Shri Khurshed Lal: May I inform my honourable friends that between Calcutta and Nagpur there are three intermediate posts for emergency.

An Honourable Member: Even three are not enough.

Shri M. Tirumala Rao: I do not want that my speech should be taken advantage of by people who have confirmed notions about it. I am trying to elicit information and to know the facts of the case, and I am sure the Minister in charge and the Government of India are sufficiently aware of their responsibilities to take all the necessary precautions as advised by their experts in the matter.

With regard to Air India International let me say this. My friend Mr. Mohan Lal Gautam has just returned after the Inter-Parliamentary Conference. Surely he did not travel by train or bullock cart—I think he travelled by air. Whatever the business side of it may be it is one of the services which has planted India on the international aviation map. Now, millions of rupees are spent in sending people abroad. You cannot help sending your delegations to all the foreign countries for one purpose or the other. And we are sending every year some hundreds of passengers on which Government spends millions of rupees. In the absence of an Indian company the money goes to the T.W.A., the Pan-American Airways or the B.O.A.C. They receive support from their respective Governments in some way or another. When Tatas have placed a service on the international plane, which is second to none and which is more convenient and more useful in several respects than others—the Government should encourage it.

Shrimati Renuka Ray: But this is irrelevant to this particular issue which is about the internal air services.

Shri M. Tirumala Rao: I am trying to be as relevant as the other speeches of all my colleagues, and I think you will follow me. You don't practise any rope-walking, I suppose. What I say is by all means, as my friend suggested, let there be an independent authority or agency—an impartial agency—which

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will be able to go into the merits and demerits and the claims of all these companies that have been operating and let us see that this night air mail service is put on a sound basis.

Shri R. K. Sidhva: The first preference was given to them, but they were not prepared to come in.

An Honourable Member: Give them a second chance.

Shri M. Tirumala Rao: But there is no point in my friend Shri Rohini Kumar Chaudhury asking for the abolition of this service. He has, however, created a good opportunity for raising a good debate and for the House to hear the experience of friends like Mr. Sidhva. I therefore wish that you would take all these points into consideration and pay greater attention to the points raised in this debate.

Sjt. Kuladhar Chaliha (Assam: General): I had thought all this time, and think, there would be only two classes of people in this country, the industrialists on the one hand and the government on the other. There is, however, I find, a third class of people, namely the poor who want to travel in a better way by the night air mail. This aspect is not considered by many people. I have been hearing the speeches of Honourable Members, and with a certain amount of gusto, and I find they have presented the case of either the one line or the other and the poor man who wants to travel better is deprived of the night air service because they want to have it abolished. On the 18th of November I travelled by the night air service and I found it very convenient. I am telling my own experience. I had a Polish Pilot who gave me all the good time and I went on very safely to Calcutta. I could do my work there. I performed my work on the 19th and went to Orissa on the same day. It saved me a lot of time. I therefore think that for the poor people it is one of the best services that one can conceive of. There is a class of people who cannot pay high fares, and there is a difference of Rs. 79 for me which incidentally saves me of three days hotel expenditure also. Why should I not utilise it? I think the Government here should see what convenience it can give to the poor people. Even if the service incurs a loss and it is necessary that Government should subsidise them I think they ought to do it. We have heard a lot of things about U.S.A. But their air rate is as much as the bus fare. Therefore we should go to that extent, and if it is possible we should encourage such companies so that these fares will come to the level of third class fares on the railways. We should aim at it. Actually, with better arrangements and with better safety devices I think we should be able to level the rates further down so that even the poorest man in the country can avail of the service. Excepting for Mr. Sidhva, nobody else thought of the poor people. As he said, the Ford Company labourers had motor cars; why should we not try to give our poor people this comfort at least once in their lives? It is enough if you give them the chance once in their time. (*Interruption*).

Sir, I congratulate Mr. Kidwai for having the boldness to start on this scheme. I trust he will be able to continue it even in the monsoon. Of course during the monsoon there are some difficulties in Provinces like Assam where there is rain in abundance; yet I think there is no harm if he tries to keep it up. I think the pockets can be located by careful survey and by the opinion of experts. If it is continued in the months of monsoon in Assam and other Provinces, I think he would have done a great achievement: we take our hats off to Mr. Kidwai. It would be a feather in his cap.

Shri Ajit Prasad Jain: Mr. Deputy-Speaker. Sir, it is an irony that this resolution should have found its author in a person who was once a great enthusiast of the night air mail.

Sjt. Rohini Kumar Chaudhuri: Not night air mail but air mail.

Shri Ajit Prasad Jain: I would read from one of his speeches made on the 19th March, 1949, when this question was under discussion. Referring to what the Honourable Mr. Kidwai had proposed, Sjt. Rohini Kumar Chaudhuri said:

"For my part I not only congratulate him but I also envy him. This new arrangement of conveyance of all mails by air will not only gladden the hearts of my friends like Mr. Kamath and Mr. Sondhi who have yet to set a future home but of many married people also who even under the shadow of the Hindu Code have not already decided to cancel their marriages."

Sjt. Rohini Kumar Chaudhuri: Sir, on a point of order. I have been misquoted because I never mentioned anything about the night air mail in that speech.

Shri Ajit Prasad Jain: Nonetheless, the House and many of us are thankful to Sjt. Rohini Kumar Chaudhuri for raising this question which has given us an opportunity to clarify many things which have been hitherto in comparative darkness.

The resolution as it stands is a very simple one. It says that the system of carrying mails and passengers by air by night should be abolished forthwith. The word used there is "forthwith", but when my friend Sjt. Rohini Kumar Chaudhuri was speaking he gave a peculiar interpretation to the word "forthwith". He said that by that word he meant that this system should be abolished with effect from the 15th January when the Himalayan Airlines' licence expires. Later he went on to say that he would be satisfied if all the points which he had made out are taken into account in deciding whether the provisional licence of the Himalayan Airlines should or should not be extended. What I could gather from his speech was that he was not so keen about abolition of night flying as he wanted to place certain facts before this House and the hon. Minister for careful consideration. I think that was a very proper thing.

Now, this question has been given too wide a scope. Originally it was confined only to the carrying of mail and passengers by night, and that to my mind raises only three essential questions. One is the question of safety precautions, the second is the question of economic waste and the third is the question of competition which the night air service creates as against the other air services. These alone are the relevant points.

So far as the safety precautions are concerned, I must say that I am no judge of them. I tried to ascertain from the Department concerned today whether there are sufficient safety precautions and they told me there were. If any precautions are wanting, I must say that the service should not be run at all either by the Himalayan Airlines or by the Indian Airways or by any other company. Flying whether by night or day is not free from danger, and more so at night and unless there is full safety margin, no flying should be allowed. That is an absolute question. If there are not safety precautions, if our aerodromes are not sufficiently equipped for night landing or if there are no equipments in the planes such as beacons, direction-finding waves, wireless services and radio telephones then in no event should there be any night-flying.

As for the question of economic waste, I think the hon. Minister has said the last word. If the question of saving aviation petrol arises, then the service which is most uneconomic, which is rendering the least benefit, should be

[Shri Ajit Prasad Jain]

curtailed and not the one which is carrying the maximum amount of passengers and the maximum amount of load.

Coming to the last of these questions, I must submit it is a very important one: how our civil aviation is going to be affected by this night air mail service. My honourable friend Shri Masani has placed the case of the companies with sobriety and moderation. I agree that civil aviation has a great importance for the nation. It is the second line of defence. It quickens the means of transportation and any scheme which adversely affects the civil aviation must be carefully looked into. But the whole question is: does this night air mail service affect the civil aviation companies adversely? That raises a big issue. We have got a number of companies which even as a layman, I can say are not operating economically; they are run extravagantly. I am told that for one single plane service, one of our aviation companies in India is paying Rs. 4,000 a month as office-rent in the Grand Hotel Building at Calcutta. Surely one single aeroplane service cannot bear such heavy expense. Again everyone of these air companies maintain their separate buses, they have their separate booking staff, their separate establishment and reserve planes. If all the flying done by the companies is pooled together it will give us a big saving and reduce the air rates. What we need is rationalisation and I think that is an aspect to which the hon. Minister give attention. I think there is a case for a full and complete enquiry not only into the question of carrying passengers and mail by night but into the whole question of civil aviation—whether our companies are operating economically, whether they are or are not wasting money. The Government have given help to companies at the expense of the tax payer and no money of the tax payer should be spent on any concern which is not working efficiently and economically.

[At this stage Mr. Deputy-Speaker vacated the Chair which was then occupied by Shri S. V. Krishnamoorthy Rao (one of the Panel of Chairmen)]

Sir, I admit that there is a case for giving subsidy or support to the aviation companies. They deserve it, because in no other country has it been found possible for civil aviation to grow without the assistance of the Government. I think the Government will be well-justified in giving adequate support to these companies, but such support should be given under certain conditions: that the companies coordinate and rationalise their working; they render adequate service; they work in an efficient and economical manner. Our companies, I am afraid, are not doing that.

So far as the limited question of carrying mail and passengers by night is concerned, I think it has been conceded by practically everybody including my friend Mr. Chaudhuri that there is no absolute case for the abolition of night-mail system. In fact, it has provided a cheaper service, as my friend Mr. Sidhva and the honourable Member who just preceded me have pointed out. If we find that there is something wrong with the Himalayan Company, which we do not know, as we are not in possession of full facts—the contract may be given to another company. That is a different question. In fact, I am unhappy that this matter, which is of great public interest, should have taken an unfortunate turn. For some time past, a sort of unhealthy controversy has been going on in the Press, and what is worse, a whispering campaign. I will not go into its details. Many of us are not at all concerned with what the two companies are doing. Nonetheless, I was sorry to see that this House should have been converted into something of cock-fight pit between the upholders of the two rival concerns. I want everybody dissociates himself completely from any of those concerns and looks at the question purely from the public point of view. I have no manner of doubt that this system of carrying mails and passengers at night is beneficial to the country. It has already

RESOLUTION re ABOLITION OF NIGHT AIR MAIL AND PASSENGER SERVICE 127

helped to reduce the passenger rates on some routes and I am sure that by providing cheaper service it will further help to reduce rates. I hope that the force of competition will compel the other companies to rationalise their methods of working and effect economies by giving up extravagant ways. It is in that hope that I suggest to my honourable friend Sjt. Chaudhuri that his resolution has served its purpose, namely, that it has brought out the salient features of this problem publicly and I am sure the Ministry will take due care to rationalise the whole system of civil aviation. I hope that Sjt. Chaudhuri will see his way not to press his resolution.

Sardar Bhopinder Singh Man (East Punjab: Sikh): Sir, I move that the question be now put.

Mr. Chairman: There are still a large number of speakers.

Shrimati Renuka Ray: Mr. Chairman, I rise to oppose this resolution. I should like to congratulate the Minister in charge of the Department concerned for the frank manner in which he has taken the House into confidence on this subject. I do feel that the matters that he has brought out considerably strengthen the argument that civil aviation should be nationalised. It is one of the most vital communications and a new venture and if Sjt. Rohini Kumar Chaudhuri's resolution was that it should be nationalised, I would have certainly supported him.

Now, Sir, about two years ago, the Government published their economic policy in which certain chosen sectors, in which were included communications and transport, were reserved for State enterprise and others were left for private enterprise. I cannot understand why the Government have not yet implemented this policy, and particularly so, in the case of such a vital means of communication as civil aviation, which is vital for the defence of the country also. I am not one of those optimists who feel that if civil aviation is taken over by the Government, it will necessarily be better administered, but I do feel that it is the duty of the State and of the Government to improve the administrative machinery and not to own defeat and say that they are not able to do it and therefore, they make it over to private enterprise. That I think has a great deal of bearing on this subject. The point that was raised by my hon. friend Shri Mohan Lal Gautam and later by my hon. friend Shri Ajit Prasad Jain regarding subsidies to private enterprise which do not bring a commensurate return and leads to waste of money is a very important one.

The next point that has been raised by Sjt. Rohini Kumar Chaudhuri about these night-flying facilities is that the night air mail service is destroying the existing companies. I think this is a very exaggerated statement indeed. His words were "destroying" existing companies." I suppose he means that there will be undercutting and therefore it is an uneconomical proposition. But since civil aviation has been given over to private enterprise, should we allow also monopolistic ventures to come in, so that it shall be run in such a way that it will be all the more difficult to nationalise at a later stage.

I should like to remind the House that when the railway rates were enhanced some time back, the day-flying companies, which are operating now, also raised their rates, but later on when the railways reduced their rates, there was no such reduction on the part of these companies. When the argument is put forward that the lower rates of the night-flying company are going to affect them adversely, I should like to point out that they have got a certain margin in any case. This margin is there. Apart from this, as the hon. Minister has already pointed out, the clientele for the night-flying company . . .

Sjt. Rohini Kumar Chaudhuri: May I correct the hon. Lady Member? I am not saying that the lower rates of the night air mail will ruin the other companies. I am saying that the absorption of the entire money which is coming from the Government in carrying mails by these night air mail companies would ruin the other companies.

Shrimati Renuka Ray: As soon as I have finished the present point, I will come on to that. As I was saying, the night service caters for a different clientele of passengers. You may say there is rivalry from the night air service amongst those who go by first-class Railway service but there is no rivalry with the day air mail service. That is one point. The other point is, that the cost of operation is based on the utilisation of the aircraft. Although I am not an expert on this subject, I have been able to ascertain certain facts. I am told that if there are 240 flying hours per month, the cost per mile is Rs. 2-6-0. If there are only 60 flying hours, the cost per mile is Rs. 4-4-0. The actual night-flying involved will be much more than 240 hours.

Therefore, the plea that the rates are uneconomical is not true. Rupees three per mile is not at all an uneconomic rate. There is no question of undercutting at all in that respect.

Now I come to the question of the all-up air mail system. It is quite true that because there is a night service, a large amount of the mail goes by the night service. But the day services are actually, the hon. Minister will correct me if I am wrong, getting more mail than they were getting before the introduction of the night service. I do not think the day services were getting as much mail before as they are receiving today. So they have no reason for any grouse on that account either.

Now, Sir, the hon. Minister has explained to us that he had negotiations with a number of companies. These companies wanted guarantees from the Government which the Government and the Finance Ministry very rightly refused to give. Because some company has agreed to work the scheme on this basis, are we going to be deterred by, what I call, these blackmail tactics. I do not think, Sir, that it is the duty of us here as legislators to make it quite clear to all types of private enterprise that if the Government's actions are to be called into question in regard to their own vested interests that can only be done by the representatives of the people who are here in this Legislature. It may be for the Standing Committee of the Legislature to consider this point. But I do not think it is befitting that we, either as legislators or as the Government, should agree to such astounding propositions that have been made outside this House and have also been insinuated here to some extent. I say, Sir, that it would be better for this Legislature and the Government, that derives its power from it, to abdicate and tell the country that democratic Government in this country is not possible as private interests are too powerful than to submit to such astounding propositions as have been made.

I do congratulate the Ministry for the stand that it has taken and I think the House will support them.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Mr. Chairman, Sir, this debate has evoked a considerable amount of public interest outside. At lunch-time a visitor asked me: "What about the night mail?" I think it is night air mail.

Sir, the supporters of this resolution must have to face three very important concrete facts. The first is that the night air mail service has proved to be cheap. It has afforded cheap air travel. It has also afforded cheap carriage of mails. The other factor is that it saves a considerable amount of time,

effective time, for businessmen. It is always convenient to travel by night, for the travellers do not lose working hours of the day.

This being in favour of the present policy, the only question for us to consider would be the capacity of the industry itself, that is, the operation should be such as not to be uneconomical. There must be a thorough and expert investigation as to the actual rates at every renewal of the contract. It is very necessary that this industry, which is a key industry and is likely to play an important role in our history, should be saved.

The other question that naturally arises is whether we should at all encourage any monopolistic tendencies and at the same time in choosing one company against the other there should be any discrimination. I do not suggest that this case have proceeded on the ground of economy and efficiency. The Government discrimination has been made. On the other hand, the Government in ment should also see that there is no cut-throat competition. If this happens the industry will die.

From these points of view, I welcome the attitude of the Government who say that they will thoroughly investigate into the matter with a view to finding out the best means of perpetuating the interests of the industry.

In the course of the debate some very interesting side issues have been raised. One is the nationalisation of the industry. I fail to see what the night air mail service and its stoppage has anything to do with nationalisation. The hon. Lady Member, Shrimati Renuka Ray, has gone a step further and said that she could not understand how private enterprise could exist in a democracy. I fail to understand why democracy should be inconsistent with to private enterprise. The great difficulty in regard to nationalisation is want of money. The Government have no money; the public have no money and we have to borrow money from outside. Nationalisation therefore is a very distant cry. Nationalisation implies that the Government will manage business more efficiently than a businessman. If a business concern fails, it will fail for reasons connected with its management and if the concern fails, that means bad luck and it can thank itself for it. But if the Government undertake nationalisation of big industries and if they fail, it would mean that so much of tax-payer's money is lost. For these reasons, I submit that the less we talk of nationalisation of big industries, the better it is for us. It creates some amount of unsettlement in business and it is not a good thing to talk about. (Interruption). We are not thinking of what will happen after ten years. It may be that the Government may become efficient after ten years of which there is hardly any tendency or sign at present. I think the Government is sufficiently entangled with their departmental matters. Let them 'expertise' in their own departments.

I welcome the attitude of the Government and I also welcome their assurance that a thorough investigation would be made with a view to preventing monopolistic tendencies and also to prevent cut-throat competition. But I suggest that the right of carrying air mail should be distributed among all the eight companies. If that is done, then there is nothing further to say. There has been some suggestion that there was some kind of discrimination between the companies which run their mails at night and those who fly their mails during day. If there is no such discrimination then there is nothing further to say. I submit, Sir, that the purpose of the hon. the Mover of this resolution has been served by public attention being drawn to it, and I believe that by the time the next renewal of the contract comes up for consideration, his remarks, his apprehensions will be given full consideration.

Shri H. V. Kamath: The question be now put.

Shri Khurshed Lal: Sir, in accordance with the salutary direction given by the Deputy-Speaker, I propose to confine myself exclusively to the question of the night mail service to which the resolution relates.

Now, so far as this question is concerned, whether by the introduction of night mail service the Government have been able to expedite the carriage of mails, I do not think there is much room for any argument. The whole position is so apparent that I really do not think that anybody can be serious in suggesting that the night mail service does not confer an advantage in the expeditious carriage of mails.

Shri Mahavir Tyagi: I am here.

Shri Khurshed Lal: My hon. friend, of course, is there. I know the mind of my hon. friend. He would have all air mail services abolished.

Shri Mahavir Tyagi: All civil aviation may be abolished.

Shri Khurshed Lal: All civil aviation! So far as my friend is concerned, he cannot raise that question now. The question we are considering just now relates only to night air mails and day air mails. We are not considering the advantages of air mail transport over other forms of mail transport. The only point worth considering in this connection is speed. On that point of speed, I submit that the night air mail, so far as mails and passengers are concerned, confers considerable advantage over the day mail.

Then we have to consider whether the night air mail service is uneconomic. When we are on this question we have got to remember that the well-established air-lines, about whom we heard so much today, were prepared to run this very service for a guarantee of Rs. 3 per mile. The proposal was that the Government should guarantee a revenue from mail and passengers of Rs. 3 per mile and, anything between Rs. 3 and Rs. 3-8-0 will be theirs and anything above that will be shared by them with the Government. I submit that if the present Air Company which is running the night service is making a revenue of Rs. 3-8-0 a mile, there cannot be any question of this service being uneconomic. It is all very well to say that Dakota service should fetch Rs. 4 per mile and quote all sorts of figures. I submit that the well-established air-line operators know their job well and would not have agreed to share any excess over Rs. 3-8-0 per mile if they found this rate uneconomic. The present company is earning a rate of Rs. 3-8-0 per mile on passengers and mails. Therefore there cannot be any question of the service being uneconomic. Then, Sir, why is it that the other concerns are so anxious about this service being an uneconomic service? On the one hand the Government are accused of doing a favour to this company by giving it a contract, and on the other hand there is the statement that the favour done to this company is such that it will sooner or later be driven to the insolvency court. I cannot make anything out of these arguments. Sir, the truth of the matter is that the older air-line companies made a miscalculation. They insisted on a guarantee of Rs. 3 a mile. They were repeatedly told that the question of a joint guarantee did not arise. Today, when they find that this company is actually earning a revenue of Rs. 3-8-0 per mile, they raise a hue and cry about loss. You can understand what this cry is for.

Then, the other aspect of the question is that this service is going to ruin all the day services. What are the facts? From the figures that we have with us of the traffic of passengers in the day services—last year in the corresponding period no night mail service was there—we find that there has not been any diminution of their traffic. Actually, the night mail service is

attracting a class of traffic which was not travelling by air in the past. Most of these are people who could not afford that. Now they are taking advantage of the night mail service. Therefore, so far as passengers are concerned, a review of the position of all day companies except one shows that they have not been affected by the introduction of the night air mail. My hon. friend Shri Rohini Kumar Chaudhuri repeatedly said that the loss to the day companies is due to the loss in revenue they were getting from mails. If my hon. friend had cared to see the figures he would have found that this too is not a fact. When we think of the revenue earned by the day services we have to take into account their earnings last year when the surcharge mail system was in force. I find that last year the average monthly income of the day companies from surcharged mail was about a lakh a month. Now, even after the introduction of the night mail system, their income is above this by at least 50 per cent.

Sjt. Rohini Kumar Chaudhuri: What was their income in the month of September last?

Shri Khurshed Lal: The day companies cannot now take advantage of the position. They refused to run the night service and then they said that they should have all the advantages created by the introduction of the all-up mail scheme and that the mails should continue to be carried during day. The day services could have a grouse if they could prove that they have lost in comparison with what they were earning before the introduction of the all-up scheme. The comparison can be only with the income they had last year from mails and this year after the introduction of the night mail system. As I was submitting, even on the figures of September last year, their income now is about 50 to 60 per cent. more. So the day services have lost neither in passengers nor in mails. The cry they are now raising is a wrong cry. This position arose only because they did not take courage in their hands and join the night service system offered to them. If they had accepted the night service, I submit the cost would have been less than what it is now, because they had their aircrafts and staff and could have utilised them also for the night service. Had they done this, the cost to them would have been less than what it now is to the company operating only the night service. But the trouble here is that the air companies thought that the Government were committed to start these operations on the 15th October. They thought that they had combined into a Transport Association and so they could dictate any terms to the Government. It is time, Sir, that the industry realised that, while the Government is prepared to listen to all the advice given by the industry, while Government is prepared to give all help to the industry, the ultimate decision in these matters must be of the Government and the Government alone. (*Hear, hear*).

Sir, another point which was sought to be made was whether the night air mail operation was safe or not. I am not an expert on these matters, and the Government have to rely on the advice given to them by their experts and from their advice, I can assure the House that we did not allow passengers to be flown in these planes until and unless we had been assured by our Technical Officers that these operations during the night were as safe as operations during the day and that everything possible had been done to ensure safety.

Shri Ramnath Goenka: Even without safety belts.

Shri Khurshed Lal: My hon. friend, Shri H. V. Kamath, suggested that between Calcutta and Nagpur, there are no intermediate arrangements. I will just give the names of intermediate stations between Delhi and Madras and between Bombay and Calcutta:

[Shri Khurshed Lal]

Delhi-Madras.—Delhi, Agra, Gwalior, Bhopal, Nagpur, Hyderabad, Bezwada and Madras.

Bombay-Calcutta.—Bombay, Poona, Aurangabad, Akola, Nagpur, Raipur, Jharsuguda and Calcutta.

Shri H. V. Kamath: Are there facilities for lighting and radio contact in all of them?

Shri Khurshed Lal: In all of them.

Shri H. V. Kamath: My information is that only Jharsuguda has got it, and not the others.

Shri Khurshed Lal: I would not like to contradict my hon. friend, but these facts have been given to me by the Civil Aviation Directorate. Surely they should know better than my friend, Shri Kamath. As far as human safety is concerned, I can only say that all that is humanly possible to ensure safety on these operations has been done, and services are running under safe conditions. I would like to remind Shri Kamath that these services are being run by pilots who have got experience of three or four thousand hours flying. Most of them had also been in Bomber Command during the war and had to fly during the night. These pilots know their job and they also value their lives and they are not going to risk them for the sake of the Government or anything.

Shri H. V. Kamath: I was not talking of the pilots. I was only asking whether all safety arrangements had been made. Let me make it clear. I am not against night flying as such, but it should not be at the cost of safety and comfort.

Shri Khurshed Lal: I was only trying to point out that these pilots who are so experienced in the matter of night flying will not unnecessarily risk their lives unless and until proper safety measures had been provided. They also value their lives as much as anyone else does.

Shri H. V. Kamath: Not very convincing.

Shri Khurshed Lal: That is my misfortune. The point has also been made that this company should not have been given this licence as they were suspected of smuggling. In the first instance, I would submit that so far as this hon. House is concerned, the question to be faced is not of this company or that. But so far as the facts of the matter are concerned, I had to go into some detail and I would place all the facts before the House. As soon as the Ministry received an information from the Intelligence Bureau that there was a suspicion that this company was engaged in smuggling, immediately on receipt of that information, I ordered that all non-scheduled flights of this company should be stopped. Later on, detailed enquiries were made from the authorities concerned and they said that they had no evidence in support of the suspicion. There may be suspicions. There are suspicions about so many of us in this country, but you do not hang a man on mere suspicion. Under these circumstances I ordered that the non-scheduled flights of this company might be resumed, as there was no case against them.

Shri H. V. Pataskar (Bombay: General): What were they suspected of—smuggling?

Shri Khurshed Lal: I do not know that.

Sjt. Rohini Kumar Chaudhuri: You do not know that!

Shri Khurshed Lal: We do not know that they smuggled at all. So, Sir, I would submit that if you will look at all the facts, you will come to the conclusion that the introduction of the night air mail service was not only a good

thing but that it was also very necessary. After all, we have heard so much throughout the day of civil aviation being very important as being a second line of defence.

Shri Mahavir Tyagi: It is not.

Shri Khurshed Lal: How can civil aviation be a second line of defence if you are only having day services and our pilots have absolutely no experience of night flying? I submit that in the interests of defence it was necessary that we should have night flying services and that our pilots should have experience of night flying. Not only that. I would say that every pilot in whatever company he is employed, in rotation, should be employed on night flying and should get experience of night flying.

Shri H. V. Kamath: Does the time-limit apply neither to the Minister nor to the Deputy Minister?

Mr. Chairman: He is replying to the various points raised by Members.

Dr. Mono Mohon Das (West Bengal: General): May I know from the hon. the Deputy Minister whether it is not a fact that all the pilots employed by this company are non-Indians?

Shri Khurshed Lal: It is true that in the beginning all their pilots were non-Indians. During the last one month they have taken three Indian pilots and we will see to it that they take more Indian pilots.

Shri R. K. Sidhva: Our Indian pilots have no licence to fly during the night?

Shri Khurshed Lal: We have not enough pilots who have got experience of night flying. How are we going to have pilots with night flying experience if all the time we are flying only during day time?

Now, Sir, what is the alternative to this night service which has been suggested by the industry? The only alternative which we have received from Mr. Tata again of Air India is to stop this night service and instead thereof convert the Delhi-Bombay halting service, the Delhi-Calcutta halting service, Bombay-Madras halting service and Bombay-Calcutta day service into night services. That is the alternative which came to us from Mr. Tata. Fact is that except Bombay-Calcutta route, there are no facilities for night flying on these routes. It will take about a year to equip them, costing about 5 lakhs in capital, Rs. 6 lakhs annually, and Madras would remain unconnected from Calcutta, and instead of the Himalayan Aviation getting this service, the Tata line would have got the monopoly for of the routes suggested by Mr. Tata only route which belongs to another company is Delhi-Calcutta and that was the sort of conversion which Mr. Tata suggested. I am sure the House is not interested whether the Tatas or some other company comes in.

My hon. friend Mr. Masani depicted before us a very gloomy picture of the Civil Aviation industry in this country. Government can help civil aviation in various ways and as was shown to the House this morning by the hon. Minister they have been trying to help as much as possible and not only we have given them rebate of petrol duty we have also increased the overall weight which the Dakota can carry, allowing them to carry 25 per cent. more weight without increasing in any way the landing charges which they have to pay. We have also extended the period during which they have to obtain the certificate of air-worthiness and the Hindustan Aircraft have also reduced their charges. These are some of the ways in which Government have tried to help

[Shri Khurshed Lal]

companies but I suggest that the industry too has got a certain amount of responsibility to put its house in order. We have heard Sir, a lot today about well-established companies. What is the history of Civil Aviation in this country? Up to the end of the War, there were only two companies operating in this country, the Tatas and the Indian National Airways. So far as the Indian National Airways are concerned, the Govan Brothers cashed all the profits and went away so that all the advantage gained during the war was gone. So far as the Tatas are concerned, as was shown this morning, they too cashed all the war profits and formed a new company which had to pay Rs. 20 lakhs as good-will alone. All other companies which have come into the field have come after 1944-45. The trouble with civil aviation in this country is that it is mostly being run by people who have no experience of civil aviation. It is one thing, Sir, that you may have made money in jute, you may have made money in cement or you may have made money in so many war contracts. So actually to talk of well-established air industry in this country, I submit is wrong. All the air lines in the country are new. That have not got the experience. There are over-heads and the airlines have not done everything possible to control their expenses and I submit civil aviation in this country will not be put to order only by the unilateral action of the Government; it will not be put to order, if I may use an Americanism, by mollycoddling these companies; these companies have got to stand on their own legs and put their houses in order and in that effect, I can assure the industry, the Government is prepared always to give them all possible help.

Mr. Chairman: Is the hon. Member withdrawing his resolution?

Sjt. Rohini Kumar Chaudhuri: Who says that I am withdrawing it at this stage?

Mr. Chairman: And then my hon. friend will want the right of reply.

Shri H. V. Kamath: Does my resolution on 'prayer' lapse?

Mr. Chairman: It does lapse.

Shri H. V. Kamath: It is most unfortunate, but God's will be done.

Mr. Chairman: Shri Chaudhuri, are you withdrawing your resolution?

Shri Rohini Kumar Chaudhuri: I am not withdrawing my motion, but I shall, after hearing the hon. Minister decide what to do, but in the meantime a lot of things have been said and I am still smarting under what was said by Shrimati Renuka Ray. I must give some reply to her.

Mr. Chairman: Yours is the last thing.

An Honourable Member: Have it in the lobby.

Mr. Chairman: In any case it cannot go to the next session. Either we have to take the vote or you withdraw your resolution. If you are not withdrawing it you may just speak for a minute or two.

Pandit Hirday Nath Kunzru (U.P.: General): May I ask under what rules of the Assembly is the hon. Member being asked to restrict his remarks within a minute or two?

Shri M. Tirumala Rao: Should he claim this right before the Government Member replies?

Shri H. V. Kamath: Of course he has the final right of reply.

Mr. Chairman: He has got every right to reply if he wants to.

Shri Jaspal Roy Kapoor (U.P.: General): I would like to have a ruling on this point whether this right to have a reply is not consistent with the right to withdraw.

Mr. Chairman: If the Honourable Member withdraws the resolution, then no speech is necessary, but if he presses his resolution, then he has got the right of reply.

An Honourable Member: Let us adjourn.

Mr. Chairman: He cannot make a speech and then withdraw.

An Honourable Member: Let the House be adjourned.

Mr. Chairman: Since it is already five o'clock, does he want a long time.

Sjt. Rohini Kumar Chaudhuri: Yes, Sir.

Mr. Chairman: The House stands adjourned till a Quarter to Eleven tomorrow.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Thursday, the 1st December, 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES
(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Thursday, 1st December, 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.

PAPERS LAID ON THE TABLE

ANNUAL REPORT OF INDIAN STANDARDS INSTITUTION

The Honourable Dr. Syama Prasad Mookerjee (Minister of Industry and Supply): Sir, I lay on the Table a copy of the Annual Report of the Indian Standards Institution for the year ending 31st March 1949 (*Copy placed in the Library. See No. IV.S. 4(3)/49.*)

ELECTION TO STANDING ADVISORY COMMITTEE FOR DEPARTMENT
OF SCIENTIFIC RESEARCH

The Honourable Shri Jawaharlal Nehru (Prime Minister): Sir, I move:

"That this Assembly do proceed to elect in such manner as the hon. the Speaker may direct, one member to serve on the Standing Advisory Committee of the Legislature attached to the Department of Scientific Research, until the end of the current financial year *vice* Shri E. John Phillipose, resigned."

Mr. Speaker: The question is:

"That this Assembly do proceed to elect in such manner as the hon. the Speaker may direct, one member to serve on the Standing Advisory Committee of the Legislature attached to the Department of Scientific Research, until the end of the current financial year *vice* Shri E. John Phillipose, resigned."

The motion was adopted.

Mr. Speaker: I have to inform hon. Members that for the purpose of election by means of the single transferable vote of a member of the Standing Committee for the Department of Scientific Research the programme of dates will be as follows:

Nomination to be filed in the Notice Office up to 12 Noon on Saturday, the 3rd December.

Election, if necessary, will be held on Tuesday the 6th December, in the Assistant Secretary's room (No. 21) in the Council House between the hours of 10.30 A.M. and 1 P.M.

ELECTION TO STANDING COMMITTEE FOR MINISTRY OF REHABILITATION

Mr. Speaker: I have to inform the Assembly that up to 12 Noon on Wednesday the 30th November, 1949, the time fixed for receiving nominations for the purpose of election of one member to the Standing Committee for the Ministry of Rehabilitation in the vacancy caused by the resignation of Mr. Z. H. Lari only one nomination was received. As there is only one candidate for the vacancy, I declare Sardar Suchet Singh to be duly elected to the Committee.

INDIAN TARIFF (SECOND AMENDMENT) BILL

The Honourable Shri K. C. Neogy (Minister of Commerce): Sir, I move:
"That the Bill further to amend the Indian Tariff Act, 1934, be taken into consideration."

As hon. members know, the object of this amending Bill is to levy protective duties on aluminium. The aluminium industry is from certain points of view a vital industry, and during the war in pursuance of the policy which the Government of the day followed, this industry was given an assurance that it would be considered for protection because of the importance which it represented in regard to the war effort. The case of the aluminium industry for protection was referred to the Tariff Board in 1946, and the Tariff Board duly reported recommending protection on the principle of enhancement of the import duty as we now propose, although the rates are slightly different, and the payment of a bounty for the purpose of relieving the industries concerned. The Board came to the conclusion that the aluminium industry was a very important one and adequate protection should be given to it, but there were certain aspects of the matter which, in the view of the Government, required a further careful consideration. This led to the appointment of a special official committee which, however, could not function till rather late on account of the partition and other reasons. The Government, as a result of the examination of the proposals of the Tariff Board by the special committee, agreed that tariff protection should be given to this industry and that this protection should be combined with the payment of bounties so as to keep the prices of the commodities concerned as low as possible in order that the consumers may not have to pay an unreasonably high price which would have been the fact if protection took the shape of only import duties. This conclusion of the Government was communicated to the Tariff Board and the Tariff Board agreed with this conclusion, as also with the rates of tariff which are now proposed under this Bill. Having regard to the fact that the interim arrangement under which the pool was operating and was in a position to fix the prices of the commodities and the fact that this pool was about to break down, Government had to decide upon taking emergent action for the purpose of giving effect to the proposals now embodied in this Bill. This was done by virtue of the special provision in the Protective Duties Act under which it is open to the Government to impose certain duties for the purpose of giving protection to any industry provided that a Bill is introduced in the legislature during the session next following the date on which the notification was issued. The session that intervened was a special session which was summoned for the purpose of discussing devaluation, and we therefore thought that it was technically right to bring this on at the earliest regular session of the Assembly. According to the terms of the law, this Bill has to be passed by the 5th December in order to be able to continue the protection that has already been granted by the special action to which I have referred.

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INDIAN TARIFF (SECOND AMENDMENT) BILL

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Sir, I need hardly say anything to emphasise the importance of aluminium as an industry. We possess vast natural resources in the shape of bauxite which is distributed liberally almost all over the country. The other next important element that is needed for the manufacture of aluminium is cheap and abundant supply of electricity. When some of our hydro-electric projects come to function, there will be ample electricity available at a cheap price with the help of which much of the bauxite deposits in the country could be developed and a very much stronger and larger aluminium industry established in the country. It might interest the House to know that in these days of high prices, aluminium, among metals, is about the cheapest. I have a few comparative figures here to indicate how the prices of other non-ferrous metals have behaved ever since the war, and I find that copper which was priced at Rs. 38 per cwt. in 1939 stands at Rs. 115 today. Zinc from Rs. 11 in 1939 has come to Rs. 70; lead from Rs. 14 has come to Rs. 73 and tin from Rs. 129 in 1939 has come to Rs. 455 but in the case of aluminium the price was Rs. 84 per cwt. in 1939 and it is Rs. 117 today. As is known to my hon. friends India is rather poorly situated in regard to the supplies of non-ferrous metals, but it is a matter of great satisfaction to us that this non-ferrous variety of metal namely, aluminium can be produced at a very cheap price, cheapest of all the non-ferrous metals indeed, in India, provided we have the requisite electric supply. It will further interest the House to know that aluminium has in a sense been competing even with Steel. Now Steel has already been replaced to a certain extent by aluminium in the construction of automobiles, buses, trucks, railway wagons, air-craft, communications equipment, housing etc. The Indian Railway Standards Office has carried out experiments on passenger coaches using a large proportion of aluminium in the exterior and interior of the coaches. The House will therefore realise the importance of this industry from the point of the economy of the country.

Shri R. K. Sidhva (C.P. and Berar: General): Are the raw materials also produced there?

The Honourable Shri K. C. Neogy: Bauxite you have got. As I have said very large deposits of Bauxite are even distributed all over the country. I have already stated that the cost of production depends very largely on the price of Bauxite. There are at the moment two concerns primarily engaged in this industry. In the case of one, namely, the Indian Aluminium Company, they have a plant for the production of aluminium at Muri in Bihar. The production works are, however, situated in Travancore State, where hydro-electric power is available. This arrangement is by no means ideal, as alumina must first be transported from Bihar to Travancore and the aluminium ingots manufactured at the latter place transported again to Calcutta, where the Company's rolling mills are situated, Calcutta being considered to be very favourable from the point of view of marketing of the production of the rolling mills. At the moment there is no chance of any cheap supply of electricity being available in Muri; but it is hoped that as our hydro-electric schemes get going, such electrical supply will be forthcoming either at Muri or in its neighbourhood, so that all the processes could be carried out at the same place. In the case of the other company which is called the Aluminium Corporation of India, the plant is situated near about Asansol. Here the Company enjoys the advantage of being located at a place not far from the deposits of Bauxite and it also gets electricity generated by coal, but the thermal electricity costs much more than hydro-electric supply, and, therefore, the problem of this company cannot be solved adequately till the Damodar Valley Project develops and hydro-electric supply is available to it. Although subjected to these disabilities, the two concerns have made a fair amount of success in their enterprise and we now propose that apart from the import duty being enhanced in the manner proposed in this Bill out of the proceeds of this enhanced portion of the duty, adequate subsidies

[Shri K. C. Neogy]

would be paid to these companies so as to enable them to carry on at a minimum reasonable profit and at the same time make the commodities available at a moderate price. The Companies concerned were not quite satisfied with the amount of protection given, but since they made their representations Devaluation has come to their additional assistance because the competition comes mainly from Canada which being a Dollar country will be in a position to sell its output in India at an enhanced price due to Devaluation of the Sterling and the Rupee.

To our mind the protection that is now being proposed to be given under this measure would be quite adequate for all practical purposes and the companies concerned will have no legitimate ground for complaining about the inadequacy of the protection. Although the protection is proposed to be given for a period of three years, it is definitely contemplated that the Tariff Board will undertake an enquiry into the whole case after a year, so that there may be an occasion for us to revise our plans of protection, if need be.

I should like to mention that in our scheme for the payment of a subsidy, it is proposed to reduce the amount of subsidy gradually year by year during these three years, because we hope that in course of time the cost of production would go down. It might interest the House to know that under our scheme the price of the products of these two concerns would be cheaper than the price which prevails at the moment or rather which used to prevail under the pooling arrangement, so that from the point of view of the consumer, there can be no objection urged against this measure of protection. As I have already said the pooling arrangement was in operation for some time and it was intended to operate as a kind of a rough and ready measure of protection, because under the pooling system the Government fixed the selling price of the commodities at a figure which was intermediate between the cost of imports and the cost of manufacture of the local commodities. As I have said, the cost under our scheme would even be less than the price which was available to the companies under the pooling system. Sir, I move.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Indian Tariff Act, 1934, be taken into consideration."

Shri T. T. Krishnamachari (Madras: General): Sir, I am afraid my hon. friend, the Minister of Commerce has not been very convincing. I would rather that the support for the industry came from the person who is primarily responsible for industries in this country, the hon. Minister of Industry and Supply. Sir, it is not that I am speaking as an expert; in fact I probably do not know anything about this particular industry excepting for the fact that for a period of about five or six years, these industries have been bolstered up and kept alive by artificial respiration. I would rather that my hon. friend had given us the cost of production of these two companies, which on the basis of the facts that he has given, are being run on very uneconomical and inefficient lines, and how long are we going to tax the consumer by putting an additional duty on imports and paying bounties to these companies, in order to sustain industries which from the very inception have never made any improvement either in their process of manufacture or in their attempts to bring down the cost of production. I wish my hon. friend had circulated the copies of the Tariff Board's report to members of this House and I do feel that I have to, more or less, endorse the complaints that have been made in this House on previous occasions notably by my hon. Friend, the Deputy-Speaker that matters like the increase of import duties by means of the executive power vested in the Government are being more or less thrown at our heads without adequate notice.

It is very imperative that the Commerce Ministry should circulate the Tariff Board report. It seems that this Tariff Board, which the Commerce Minister

has constituted, is working at breakneck speed. You hear every day in the papers about some address delivered by the President, copies of which he has been very good enough to send to a few members here, and the work of the Board is done almost before the time taken to close one's eyelids. All these perfunctory enquiries put further additions to the burden on the taxpayer by means of import duties in order to sustain industries which apparently either cannot stand on their own legs or those in charge of these industries will make no attempt whatever to make these industries stand on their own legs.

I would like my hon. friend the Minister of Commerce to tell us before we take up the clause-by-clause consideration of this Bill, what is the cost of production of these two big factories of which he made mention and what is the amount of bounty that is being handed to each one of them. In the past, at any rate, according to information I have received on various occasions, the amounts that were being given to them by way of bounties were something fairly colossal. As I said in the beginning I would rather that my hon. Friend the Minister of Industries is here, because some seven or eight months or perhaps a year ago we heard of a company being started in the Central Provinces for the purpose of manufacturing aluminium, even though the two concerns now existing were in a fairly bad condition. We had also heard of some pronouncements made by the Director General of Industry and Supply, whose statement was contradicted by people who knew something about the industry. I see that my hon. Friend the Commerce Minister has made no mention whatsoever of this proposed industry which was to be started in the Central Provinces, whether it has died a natural death as most Government-sponsored concerns do or it is still in the offing. May be it is a matter of Hobson's choice for this House in this matter and they have merely to endorse, ratify or put their seal or imprimature on an action taken by Government, whose *bona fides* cannot at all be questioned. But as a warning for the future I would rather that my hon. Friend took some more time over this matter and circulated copies of the Tariff Board report and give us a little more information about the state of the industry as it is now. My grouse is that the Tariff Board is not strong enough to stand up to the demands of these industries. The time has come in this country when we must tell the industrialists that they must bring their prices down and that the country cannot afford to pay them the profits which they consider to be proper.

Shri R. K. Sidhva: Their report generally supports the industry right or wrong.

Shri T. T. Krishnamachari: I have no intention of casting any aspersion on those worthy gentlemen who constitute the Tariff Board who, probably according to their lights, are doing very good work. But I do feel that the attitude of the Tariff Board and also of the Commerce Ministry and perhaps also of the Industries Ministry, who have undoubtedly a predominant say in this matter, particularly in the matter of fixing the tariffs or the protection to be given to an industry, has not been such as to make the industrialists really come down to brass tacks. We cannot go on at this rate giving bounties either by way of handing over what we get from customs duty or in any other manner to industrialists who would not help the Government in any way to bring down the prices. But I do feel that if it is not possible for my hon. friend now and I realise that he is more or less carrying the burden of the Industries Minister—I would like an assurance from him that he will pass on to his colleague these remarks made by members of this House. A note on the position of the aluminium industry from the time when this protection was given should be circulated to members of this House giving details of the cost of production, whether there has been any diminution in the cost of production since then and what attempts the industry has made to co-operate with the Government in establishing what is called a national industry.

[Shri T. T. Krishnamachari]

I do not see why my hon. Friend the Commerce Minister or his colleague the Minister of Industry and Supply should permit such a cock-eyed method of running an industry, namely of sending the material which is in a semi-finished state to places like Travancore for the purpose of obtaining electricity of a particular voltage. If the Government wants to help in that matter surely power of the nature required ought to be available at a place much nearer than Travancore.

I cannot see any reason why the Transport Ministry in this matter should remain indifferent and allow waste of the meagre transport resources available in this country for this purpose, by helping or maintaining an uneconomic industry in which the intelligence of those who run the industry apparently seems to be as dead as door nail.

Probably my hon. Friend the Deputy-Speaker, who I see is rising, will have something more to say. I do feel that this House is entitled to some more information and that in a proper form from the Ministry concerned before they allow a Bill of this nature to pass, so that they might at any rate feel that they have not done wrong in passing a Bill of this nature. Now the information available is very meagre or practically next to nothing.

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, in this matter I entirely agree with both my learned friends—the mover of the motion the Hon. Minister of Commerce and also my friend Mr. T. T. Krishnamachari. I agree with the Commerce Minister that this industry requires protection and I agree with Mr. Krishnamachari that the industry must also help itself. This industry ought not to exist merely on bounties and outside help but must help itself to a large extent by reducing its cost. There is no doubt that this industry is a very essential industry. Originally we were manufacturing only utensils out of rolled materials and sheets which we bought from Canada. We then started at the other end. There are three or four stages in this industry. Bauxite is the material from which the ore is extracted. It is called alumina. The next stage is that is converted into ingots, which is called aluminium. The third is when it is rolled into circles or sheets and the fourth stage is when they are converted into utensils. We bought aluminium circles and sheets from foreign countries and made utensils. It is one of the main purposes of this industry not only in this country but in others also. Only ten per cent. of the aluminium produced in the world is used today for this purpose. The other more important purpose is utilisation for the aircraft industry in which five to fifteen tons of aluminium are being used for various parts in various shapes and forms in one plane.

In the automobile industry also for the plates and others aluminium is being used in large quantities on account of its lightness. My hon. friend the Minister of Railways and Transport has also in contemplation the manufacturing of railway coaches with aluminium cover and so on. They are doing it in the factory at Bangalore. These are the more important uses of aluminium. Judging from the conditions that have been laid down in the Fiscal Commission Report of 1922 and also from other standards this is an industry which can certainly stand on its legs. It has ample raw material available in this country. Bauxite is available in almost all places and it is strewn over various places in the sub-continent of India—it has not neglected any part of the country, it has been good to almost all provinces.

Another ingredient, caustic soda, is being manufactured in plenty in this country, as for instance in Mettur and other places.

Shri T. T. Krishnamachari: I might correct my hon. friend before he goes further. The amount of caustic soda that is manufactured in this country forms a very small part of the country's total requirements.

Shri M. Ananthasayanam Ayyangar: I may equally inform my friend that unfortunately the price of caustic soda has gone down on account of the O.G.L. and so much of caustic soda having been brought into the country. Possibly my friend is correct—I always bow to his superior knowledge.

I have got here a Report on Metallurgical and Engineering Industries (Recent Developments) by Dr. P. J. Thomas who was appointed to go into the question of this industry. This report was made in 1944. There he says:

“The raw materials for the manufacture of aluminium are (1) bauxite, (2) cryolite and (3) caustic soda. Bauxite, the ore of aluminium, is found in many parts of India—notably at Belgaum and Tungar Hill in Bombay Province, at Katni in C.P., at Ranchi in Bihar Province, and in the Kashmir and Kolhapur States. For the economic production of aluminium, bauxite must have a minimum aluminium content of 52 per cent. and a maximum silica content of 5 per cent. The deposits at the places just enumerated fulfil these conditions. In fact, some of the Indian bauxite deposits contain as much as 62 per cent. of aluminium oxide. The total reserves of bauxite in India are very large, perhaps of the order of 250 million tons. Cryolite must be imported, but the quantity required is small, compared with the tonnage of the aluminium processed. As for caustic soda, increased supplies are now being made in India.

The production of aluminium is an electro-metallurgical of process.”

Therefore, after a thorough investigation into the metallurgical and engineering industries, here is a report which says that out of the three ingredients only one ingredient, which is used in a very small quantity, has to be imported, the other ingredients—both natural and industrial products—being amply available in the country. So far as its use is concerned, it is being put more and more into use in the aircraft industry, in the automobile industry and even in the transport industry. Therefore we will be only cutting the nose to spite the face if we withhold protection to this industry.

It is true that some of our enterprising industrialists started one company, Jeewanlal and Company, mainly for fabricating utensils in 1918. But they had competition from Canada and they had to amalgamate themselves with the Canadian competitor into a limited Company in 1929. There was another Company, the Indian Aluminium Company in Madras. It was not able to withstand this competition. So this Jeewanlal (Canadian) Company purchased that also. There are four Companies now. What I am afraid of is this: No doubt the raw material is here, but the Canadian Company seems to be profiting most by the protection. I am making the statement for want of any other information. There are four companies now operating. Possibly there are more after 1944. I am reading from this Report of 1944. The companies are (1) Aluminium Manufacturing Co., Ltd., Calcutta, (2) Wolverhampton Works Co., Ltd., Bombay, (3) Anant Shivaji Desai, Bombay and (4) Lallubhai Amichand, Bombay. And then Jeewanlal (1929) Ltd.

An Honourable Member: Where is it?

Shri M. Ananthasayanam Ayyangar: Possibly in Bombay. Now, this Jeewanlal (1929) Ltd. is none other than the Canadian Company in another form. Hitherto the practice has been for Indian firms to take to English names though an Indian proprietor starts the firm. That was done for the purpose of attracting the custom from the European masters who were ruling this country then. We used to find a dark man calling himself King and Company. Now the practice is the reverse. Simpson & Company will overnight transform itself, without any proselytisation, into Rama & Company or Narayanan and Company and so on. I do not know whether this Jeewanlal and Company which has amalgamated itself or has entered into a combination with the Canadian Company is only a small fraction of the Canadian Company which is ruling—I have not got any details, I have not got any report. This Canadian Company which was producing large quantities of aluminium and exporting it from Canada has been competing with this company which was

[Shri M. Ananthasayanam Ayyangar]

only fabricating utensils and holding our market. The Canadian company has swallowed up these companies and has established itself in this country. Possibly this protection will benefit only the foreign company—I do not know.

Now I recollect the charge that was made by my friend Mr. T. T. Krishnamachari that the ore is being transferred from one place, that is Calcutta, to another, that is, Alwaye in Travancore for converting it into steel ingots and therefore the long distance and other things add to the cost. I may tell him this. I find from this Metallurgical Report that so far as Canada is concerned Canada does not produce any bauxite at all. It has no bauxite. The natural material for manufacturing alumina in the first instance and aluminium next is not available there. The ore is exported to Canada from South Africa. But Canada produces the largest quantity of aluminium in the world. So the non-availability of the raw material in the place of manufacture does not stand against the need for protection. As a matter of fact England does not have any cotton but Manchester is producing such a large quantity of cloth. That theory has been exploited long ago. The distance from one part of our country to another is not so great. It is true that this industry requires a large quantity of power, and that the hydro-electric power is available in Alwaye. And sooner or later when the Damodar Project comes into being some of the power might be available in Calcutta. Even then one single unit will not be sufficient to produce all our requirements. Therefore, without any hesitation we can support the need for protection so far as this industry is concerned.

It may be true that Europeans are running this concern. I would like to know whether this company, if it is a European company, satisfies the ordinary requirements of foreign capital in this country—we must have 51 per cent. of the capital—whether there is provision for the training of our technicians, whether the board of management is managed by a majority of Indians and so on. Without those safeguards, to avoid foreign competition it does not mean that we should bring in the very persons who are competing with us from outside and give them protection in another form and shape inside. With that condition—I would certainly like to support the plea for protection.

Recently there was a conference convened by the Ministry of Industry and Supply. A Committee was appointed to go into this question of helping the aluminium industry. They referred to these two materials and said that even at Alwaye they are not able to generate sufficient power to convert all the alumina available into ingots. That must be provided for as early as possible. The want of transport facilities also, they say, has stood in the way of the manufacturing process. This conference was convened on the 27th and 28th July 1949—only three months ago. Then it was remarked that these facilities were not being made available. Mere tariff protection is not enough, but these other facilities must also be given. So far as tariff protection is concerned I join hands with my friend Mr. T. T. Krishnamachari that we have been at a handicap. I have been repeatedly stressing this point on the floor of the House that when a Tariff Report is placed before us—and the hon. Minister certainly scrutinise it—we should immediately, without knowing what the details are, what are the ingredients that have been taken into account in the costing, how efficiently it could be worked and so on, blindly say 'ditto' to what the Commerce Minister says. I have very great respect for him, but I do not want merely to be a rubber stamp when the Government places a Bill before the House.

I am sure hon. Members will appreciate the difficulty under which we are labouring. I have got this Metallurgical Report of 1944. Possibly it is an old, antiquated, antediluvian report. Since then, if the matter has been placed before the Tariff Board, has that Board considered it before or after devaluation?

While on the one hand I agree that this industry must be protected because it is likely to stand on its own legs sooner or later with some help from the Government, on the other I wonder if under the present circumstances the protection that is asked for is necessary. Always, we ought not to forget the load that is being imposed by one item or another on the consumer in this country. His resources are few and limited. The 30 per cent. *ad valorem* duty is there; it is a revenue duty. Whether it is by itself not enough is a point that has to be considered. Then an additional duty of Rs. 328 per ton is imposed and another Rs. 121 per ton is also imposed in another form on the same material. When were these fixed? Before devaluation or after devaluation? Devaluation by itself is sufficient to give this amount as a protection.

Then also, Canada is a hard currency country. The main competition is from Canada. On account of exchange control it is very difficult to get hard currency; that also adds as an indirect protection to this industry. There is this 30 per cent revenue duty, then there is the effect of devaluation, and thirdly on account of exchange control there are limitations imposed; the O.G.L. also has been withdrawn. These are all circumstances which by themselves are enough to give the protection, more protection than has been recommended under this Bill. Therefore, if the Tariff Board did not go into this matter after devaluation, it is necessary that it should go into it again and see whether the circumstances I have mentioned are not sufficient to protect this industry and give it that protection which was recommended before devaluation took place. That is a matter which certainly ought to have been placed before us. I am exceedingly sorry that the hon. Minister has not given us those details. Possibly he is thinking of doing so, even now it is not too late and I am anxiously expecting any information of that kind.

Then, Sir, I want to know what the by-products of this industry are? There are various ways in which the costs of production can be reduced. What are the by-products and what steps have been taken to utilise them to reduce the costs of production? That is another matter with respect to which I would like to have information from the hon. Minister. From the Indian Trade Bulletin issued by the Commerce Ministry I find that today we are producing as follows: 604 tons for the first quarter of 1948, 872 tons in the second quarter and 889 tons in the third. Striking a balance and taking an average the annual average production in this country is 3200 tons. We want much more. Therefore, I give wholehearted support to any desire to protect this industry. At the same time I would like to be guarded in imposing an additional burden and would try to avoid the burden without prejudice to this industry. From the facts that I have in my hand, I think this protection is unnecessary because there are other ways of achieving the objective. As I have already stated, the 30 per cent revenue duty, the effect of devaluation and also exchange control limitations, all these give that protection which may have been recommended by the Tariff Board. Possibly I may be wrong—I should be glad to be shown that I am wrong—but as at present advised I have no other material. Therefore, from the material on hand, while recognising the need for this industry to be protected, I think it is already amply protected. If there is a clarification I would certainly like to support the case. Even now it is not too late for the hon. Minister to ask the Tariff Board to review it, and keep this Bill pending until they review the question in the light of the circumstances that have come about recently like devaluation etc. Regarding the other cost-reducing element like the by-products etc. also we have no information.

Sir, I give qualified support to this Bill. If the Tariff Board reported long before the devaluation, then there is no great hurry for pursuing this matter now. The Bill may be kept pending, the matter may be referred to the Tariff Board and we would like to have its views.

Prof. N. G. Ranga (Madras: General): Sir, I wish to support this Bill and in an unqualified manner too, but at the same time I do join with my friends the Deputy-Speaker and Mr. T. T. Krishnamachari in their plea that more and better information should be made available to Members of this House in order to help them to understand the position and appreciate the stand taken by the Government and offer constructive criticism. If the information asked for had only been supplied to us, it would not have been necessary for the Deputy-Speaker to content himself with offering only qualified support. I wish to remind my hon. friend the Minister in charge, Mr. Neogy, of his own experience of this House in earlier times when the Commerce Department could not have thought of introducing a Bill like this without first of all circulating among the Members of the House a report of the Tariff Board if there were one and make available such other relevant information to all the Members of the House. I wonder why in spite of repeated reminders in this House to him and to the other Ministers that a similar practice should be pursued even now.....

The Honourable Shri K. C. Neogy: Sir, may I interrupt my hon. friend? I think the facts should be known in regard to the question of supplying of the report of the Tariff Board to hon. Members. This report has been in the library for a considerable time. Quite a considerable number of copies, I think, are supplied to the library. It is true that in the past, while I was a Member of the Opposition, the practice used to be to send a copy to each Member separately, but as a matter of economy this practice was given up some time ago and each individual Member is not supplied separately with a copy of the Tariff Board report but several copies of each report are made available in the library of the House. I am sorry to say that on enquiry I find that not many Members make even any enquiries of the librarian as regards the existence of this Report.

Shri T. T. Krishnamachari: If the Chair will permit me, may I say that I visit the library every morning but my hon. friend the Minister does not expect me to use my second sight to anticipate that he is introducing a Bill of this nature. Unless we know that the Tariff Board has reported and there is going to be a Bill as a result, we cannot go and ask for the particular report and I think my hon. friend cannot take shelter under the fact that copies have been supplied to the library.

Prof. N. G. Ranga: I can only sympathise with my hon. friend the Minister.....

Mr. Speaker: I think we shall have to find out some way out of this. I was just considering as to whether, whenever copies of reports are placed in the Library, an intimation should not be sent to hon. Members saying that copy of such and such report has been placed in the Library. It should not cost much, really speaking, if during the period the House is not in session, we were to send out to hon. Members monthly statements of reports which Government have placed in the Library. I think that will serve the purpose.

Prof. N. G. Ranga: I will just add a little suggestion to what you have stated, that it would be indeed convenient to most of the members if the Minister concerned, whenever he wishes to introduce a Bill of this nature, also takes care to circulate a small slip of paper through your Notice Office informing the Members as to what are the relevant reports which can be consulted in the Library concerning the matter dealt with.

Shri M. Ananthasayanam Ayyangar: I may be pardoned for interrupting. On a prior occasion, when I raised the same difficulty regarding the Tariff Report, my hon. friend the Minister was pleased to circulate an extract of the various reports. I thought he would do a similar thing so far as the present report is concerned. After all, we are not very sparing about books, papers and other things being circulated. It only requires some patience and time on the part of

his staff to give us some information. Otherwise, our votes will be merely one multiplied by so many million. Nothing more than that.

Prof. N. G. Ranga: This matter has been argued enough. Let me add only one remark. My hon. friend Mr. Neogy being an experienced parliamentarian himself should hereafter at least try not to take this House for granted, but on the other hand, treat this House with the same courtesy that he expected to be shown in earlier times. I think I have said enough on that point.

Now, Sir, I am very happy at the new method of offering protection that my hon. friend has now decided upon.

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

In earlier times, we used to argue with the other Government that if they were to offer any protection at all it should be done, as far as possible, through a direct bounty to the industry or industrial concerns concerned, so that it will be possible for us to keep effective control over its various degrees of efficiency, and I am glad this Government has adopted that principle. I am also glad that in addition to offering this bounty it has offered this protection. I am not able to agree with your own assumption that possibly with the devaluation that has come in, the protection that the industry might be getting with the help of devaluation and 30 per cent. revenue *ad valorem* ought to be enough, because while the cost of production comes to Rs. 1900, the amount of protection that is sought to be given now would be only Rs. 237 during the current year and Rs. 146 during the second year, that is, from 12 per cent. to about 8 per cent. or even less than that. Therefore, it cannot really be enough if we were to leave the industry to look after itself only behind this devaluation and revenue duty. There is a case for the protection that is sought to be given by the Government at present. I do agree that the Government should try to take necessary steps to provide all other facilities also, such as transport, supply of hydro-electric power, etc. But in addition to these, this protection also is necessary and I am glad it is being proposed.

I am also in agreement with you in saying that the Government should keep trace of the various methods of production that are being adopted by these companies. We have got to take care to see that rationalisation is brought about and every possible step is taken in order to step up efficiency. At the same time, it is necessary for us to ensure the production of aluminium in our own country: as much of it as possible. I was told by the hon. Minister that we are producing at present only about 25 per cent of our needs and it is not long ago that India was in a very unhappy condition because she had to depend upon Canada and Canadian aluminium could not be brought in as easily as was necessary because of shipping difficulties and various other things. We do not know what is likely to happen in the rest of the world, whether the kind of peace that we are now enjoying is likely to last for a long time. Therefore, it is necessary for us to build up this industry of strategic importance, and I do not know how far even with this amount of protection that we are going to offer to this industry it would be possible for us within the next five or ten years to become self-sufficient so far as this material is concerned.

You have raised a very relevant point in regard to the management of these companies. For instance, I do not know to what extent India can really say to herself that she has got effective control over the activities of this Jeewanlal Co. Now that Government has not only agreed to give protection but also direct bounties, it would be the duty of the Government to see to it that this as well as other companies are persuaded from time to time to increase the number of their Indian personnel and watch their status, their training, their

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efficiency and so on and in that way ensure that within a reasonable period, these companies may be expected to pass entirely into Indian hands not only in regard to management but in regard to their regular staff.

We are assured that this bounty is to last only for three years and that too is to be given to this industry in a tapering fashion. At the end of three years, it may be possible for Government to stop it, but nevertheless, Government have taken power to review the position at the end of these three years. If even at the end of three years the bounty comes to be necessary and protection also comes to be necessary, I am sure Government would be well advised to give this bounty as well as protection. I have no doubt whatsoever about the need for offering this kind of double-sided protection to this industry, and I wish to congratulate the Government also upon having devised this method in order to satisfy the needs of the consumers also. Consumers have to bear a portion of this protection and at the same time, the general public as a whole should be expected to bear their own portion. So both sections are called upon to help—I should not say help this industry, but help this Government and help India in order to build up this industry, because to build up this industry is itself a national service at the present juncture.

Shri B. Das (Orissa: General): I support the Bill. I have always had doubts about capital formation of the aluminium companies. Now that we are going to be a Sovereign Republic, I would like to know to what extent the Canadian people are dominating over the policies of these aluminium concerns. To all intents and purposes, the impression that I have gathered within these ten or fifteen years is that it is a cartel of the Canadian gents who have created a monopoly all over the world in the matter of aluminium concerns. But I would very much like my hon. friend Mr. Neogy to tell us how far India has got freedom to exercise its sovereignty over the rights of these people. I would like to know also whether the 51 per cent. capital is there and whether there is a definite policy of at least the majority of the Directors being Indians and not paid stooges of the Canadian people. If I can see events, aluminium industry will play a big part in the development of our industries and security of our nation.

India has got very little copper. We will soon settle down to apply aluminium for our key industries like, electricity etc. In the United States of America aluminium cables and aluminium wires are used for transmission purposes. In India we have made very little effort to use aluminium wires and if aluminium is produced cheap, then no doubt India will use aluminium wires for mechanical as well as electrical purposes.

Sir, I agree with the hon. the Commerce Minister that when our huge hydro and multi purpose projects like the Damodar valley and the project in my province the Hirakud are completed, we will be in a position to supply cheap power for the manufacture of aluminium. In Orissa we have got rich deposits of bauxite and with the help of cheap power, we hope we will be able to tap them to the utmost extent possible.

But there is one snag. The capital cost of most of our post-war projects have gone up by as much as one hundred percent, with the result that it is doubtful whether we would be in a position to supply cheap power to the aluminium industry. This is a matter which the Ministries of Commerce, Industry and Supply and Works, Mines and Power should examine, with a view to seeing whether cheap power would be available to the aluminium industry.

Sir, I want to say a few words in connection with the enquiries of the Tariff Board. The House invariably has not much knowledge of the reports of the Tariff Board. The Government now is our own and it should start the practice of circulating a resume of any particular report which a Minister may have to

use in defence of his Bill. A brief typed note of, say two or three pages, giving a summary of the report of the Board will help discussion on the floor of the House. I plead guilty I have not read the Tariff Board's report in this case. There are occasions when we forget events and I suggest that this practice may be evolved.

Sir, you rightly raised the question as to whether after devaluation the Tariff Board had re-examined the situation. I think for the past two or three months nobody's mind is set properly at rest. We do not know whether the Canadian capitalists will suddenly reduce their prices if there is any Indian firm which is not included in the cartel and tries to work independently. I do not think Canada has yet reduced her prices though she is in the dollar area, but to save her key industry she may at any time drop the price to the disadvantage of the Indian manufacturers. So, I do suggest that the Tariff Board should continue to keep an eye on the progress that the aluminium industry makes by the protection that we are going to give and if necessary the Board would recommend to the Commerce Ministry that the question of bounties and protection may be revised earlier than three years.

Shri Biswanath Das (Orissa: General): Sir, at the outset let me state that my anxiety to help, protect and develop the industries of India is no less than that of any hon. Members that sit here. With all my enthusiasm I must frankly confess that I am not able to agree with my hon. Friend the Minister of Commerce. Need I also state that I am not satisfied with the way in which the Tariff Board recommends industries for protection as also the way the Government has been giving effect to these recommendations?

Sir, let me refer in this connection to sugar industry. We have been giving protection to the sugar industry for the last two or three decades—and with what result? The Tariff Board must have made recommendations for the development of the industry as such. But what have the industrialists done? They have not behaved as industrialists; they have behaved more as speculators. What is the agency, Sir—I should like to know at this stage whether it is the Government or the Heads of Departments or the Tariff Board—to watch the benefits that accrue from protection, as it is in this case, when protection and bounties are being utilised for the development of the industry. I must frankly confess, Sir, that my hon. Friend the Commerce Minister has not thrown any light on this point. Therefore, with the sad and bitter experience that I have of other industries where protection was given, I must throw off this recommendation merely on this ground and I would plead with my hon. Friend to agree with me that unless definite assurances are forthcoming that a specified machinery is being set up to watch that the industrialists utilise the benefits to develop the industry that accrue from it.

Shri Ramnath Goenka (Madras: General): The machinery is there; but it is sleeping.

Shri Biswanath Das: Therefore, unless and until the Government gives as an idea as to the effective agency that would watch the development of the industry and the extent to which the benefits of protection are utilised for the development of the industry, we are not prepared to agree and go with the Government. That is my first objection.

My second objection is that the Government is not proceeding with the recommendations of the Tariff Board in a planned manner, but in a slipshod method with the result that the country is put to eternal sacrifice. I cannot imagine that a country, and much less a poor country like India, just trying its best to stand on its own legs could be able to make an eternal sacrifice. Sir this sugar industry started in provinces like the United Provinces and Bihar where its output cannot compete with the output of areas like Orissa, Madras

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and Bengal. The development of this industry in United Provinces, etc., will have eternally to depend on bounties to keep it alive. Therefore, the National Government, unlike the bureaucratic Government of the past, should plan and develop this industry in a planned, regulated and scientific manner. What is it that the Government have done in this case? I am thankful to you, Mr. Deputy-Speaker, for placing before the House certain aspects of this question of protection to this industry. By going to help this industry, Government will not be helping the country. The recommendations of the Government remind one of the Lord of Pakshithirtha. He had four definite places to visit each day: his night's rest was at Badrinath, bath at Benares, midday meal at Pakshithirtha and the evening Bhog at Dwaraka. That seems to be the fate of this unfortunate industry that we are going to help. In some places you have the raw materials, in places like Travancore, etc., certain operations have to be conducted and in Calcutta a third process has to be done. Like Pakshithirtha you have to go from place to place to complete and develop the industry.

Sir, you were good enough to make certain statements with which I confess I do not agree. You said that the distance of raw materials have nothing to do with the development of any industry. True, England has developed the textile industry though she had no cotton. Because she was having the backing of the empire to develop that industry. The example of England will not therefore be of avail to us and will not enable us to face world competition in future years. I was the other day reading in the newspapers that the British industrialists were thinking many times more than they ought to as to how to face future competition in the textile industry. Similar difficulties we too will have to face if we plan the development of our industries in a slipshod manner. That is how things are being done by the Minister of Industries.

Sir, you said that we must see to the development of the various stages of the industry in this country, so that it will be a really national industry. But what is it that we have done? We have done nothing in this. Sir, we have the Doduma water-falls in Orissa for hydro-electric works which are in an advanced stage. The Madras Government is going on with the work with break-neck speed. It was started in Orissa. It was my misfortune to try to develop it with the helping hand of one of our ablest men, Mr. Giri, who was then the Industries Minister in Madras. He had talks with a Canadian Combine to make those people come to Orissa and develop the industry. You have inexhaustible bauxite mines in Jeypore and you have in Kalahandi district of Orissa. The hydro-electric installations which are soon going to generate electric power in Koraput District of Orissa are being now worked by the Madras Government. You have all these advantages there. Have you, my hon. Friend considered these conditions and circumstances? Has the Tariff Board taken into consideration these things, apart from the weighty arguments mentioned by the Deputy-Speaker?

Sir, my hon. friend said that devaluation has absolutely nothing to do with this protection. I join issue with him on this point. Canada has not come to the level of England in devaluation. I think Canada has devaluated her pound only by 15 per cent. (Mr. Deputy-Speaker: 12½ per cent.). To that extent it has given protection to these industries. Therefore, the point raised by you has a certain amount of relevancy and I would like to know whether the Tariff Board has considered these questions.

Sir, it is now one o'clock. I will take some more time.

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

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

Shri Biswanath Das: I was complaining to you that the full picture of the case had not been placed before the Assembly by the hon. Minister. Only one side of the picture has been placed and that picture, I must frankly admit, is not even complete. Sir, the hon. Minister has not placed the financial effects of his proposal in terms of rupees, annas and pies. We have a right to know what amount of money in the course of these three years is going to be placed in the coffers of these industrialists and the stages of development that they propose to adopt in the course of these three years. That, I believe, would have completed at least one side of the picture. Sir, as I have already stated, I repeat that these amounts that would be paid by means of protection and bounty, should enable the industry to develop in stages and here we have a right to know the definite stages to which the industry is expected to reach at the end of the year and also by the end of the period. This information would have completed one side of the picture.

I now come to the other side of the picture. My hon. friend, the Deputy-Speaker, has very rightly pointed out that we have to look to Canada and other countries for ingot and other things. That being the position, this House has a right to know at this very stage what steps are being undertaken either by the Tariff Board or by the Government to work and develop the bauxite mines and work them so that we will be in a position to produce here the ingots and other allied things in due course. With the little experience that I have had of the development of hydro-electric projects in Orissa in co-operation with the Government of Madras and its Industries Department, I claim that in the districts of Koraput and Kolhandi we have—we were advised by experts both of Madras and Orissa—we have abundance of bauxite. At all these places we have also the convenience of hydro-electric installations to come soon. Sir, looking at the time-table, I feel that the Government ought to have known that the Doduma hydro-electric station is expected to be installed at the earliest possible opportunity, and if my recollection is right, the time-table is 1952. Therefore, you have convenience not only of hydro-electric installations but of bauxite and also the convenience of port facilities of Vizagapatam, and also railway convenience. All these conveniences are admitted. Therefore, this House has a right to know why the industry has not been planned from the initial stages right up to the stage of manufacture and also why convenient and economic places have not been thought of in preference to places which are bound to make production very costly.

Sir, having said so much about this, I now come to the location of Asansol. My hon. Friend stated, in a way he admitted, the need of a thermal station and the burning of coal. In this connection, I had a discussion with one of the prominent and renowned hydro-electric experts of Hyderabad. He ridiculed the idea of generating hydro-electric power by means of coal. He said, what is the use of burning away coal—your national wealth, when you can utilise all your water flowing into the ocean? So, I would appeal to the Government to think seriously of this question. You are taking up the establishment of hydro-electric installations. Why not develop these industries by the side of hydro-electric power so that in due course you will not only have any amount of cheap power that you want but you will have production cheaper, avoiding the need of straining your transport facilities in times of stress and necessity. All

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these are weighty considerations. Therefore I would plead with the Government to give due consideration to this aspect of the question over and above the weighty considerations that were placed before the House by the Deputy-Speaker.

Another point which I wish to place before the House is this: I think that the hon. Minister should have placed a Bill of this magnitude before the Standing Committee of his Ministry.

The Honourable Shri K. C. Neogy: It was placed before the Committee and it was approved by them.

Shri Biswanath Das: I am thankful, but he could have stated that. Then again, I cannot see, nor can I understand, the meaning of the hon. Minister coming just four days before the close of the period, placing a Bill of this magnitude before it and saying, unless you pass the Bill, the industry will be out of gear, because you have only four days left. That claim, I claim, is hardly satisfactory to the hon. Members of this House.

The Honourable Shri K. C. Neogy: The Legislature has given the right to the Government to take action in urgent cases on condition that the matter is placed before the legislature within a particular time and the Bill was introduced on the opening day of this session and today is the earliest day on which it could come up for consideration and I want to repeat that the legislature itself has given this right and the discretion to the Government for the purpose of taking adequate action in anticipation of the legislature's sanction.

Shri Biswanath Das: Sir, no one denies that power. Irrespective of the legislature giving such a power any responsible Ministry carries with it the power of the legislature, the prestige of the legislature as also the responsibility of the legislature. Therefore, this needs no telling but despite all that has been stated by my hon. Friend, the Minister in charge of the Department, I claim that action could have been taken to bring this matter earlier than what has been done now, so that we could have more leisure to think over this question. Sir, I have nothing more to add.

Shri R. K. Sidhva: I do not think that you will charge me for repeating some of the arguments which had been advanced by the previous speakers, but when the rights and privileges are not respected by the Ministry, it becomes the duty of members to draw your attention, Sir, more than once. Although you have been good enough to find out a *via media* as to how the House should be supplied with the copies of the reports—we are all thankful to you for it, Sir but that also is not enough. That is something, I should say, but that is not all the thing that would serve the purpose of sending a copy to the Library and give intimation to us. I have been always advocating that we do not have all the information. You were good enough to help but that is not sufficient. All members are not staying in Delhi and we do not know what Bills are coming. At the same time I do not know whether the Library rules will permit me to ask for the copies to be sent to my address by post. My hon. friend stated that previously before the War these reports were supplied and during the War for want of scarcity of paper they have been stopped. I suggest to him that now the War is over and the paper situation is easy, let us go to pre-war times and let us have these copies. They are printed, not cyclostyled and the question is only of paper and I do not think there should be any difficulty about it. I hope the hon. Minister will see to it that these important reports relating to the protection of industries, for which we have been repeatedly asking, are supplied to us. It is not today that my hon. friend, the Deputy-Speaker and my other friends have made this grievance. On the last occasion when this Tariff Board question came for five or six other industries, we raised the same point and the hon. Minister should have borne in mind our requests. It is an

insult to the House. When we stated that we should be supplied copies the hon. Minister made a note of it and yet even today we are not supplied these copies. I am not stating that for the first time. The members stated last time also and the hon. Minister should have taken a little care for the members who take interest in these matters and supplied them this information. These reports are very important, very interesting and very illuminating. The hon. Minister said that some copies are there in the library. I have been trying since yesterday and up to now the Librarian has not got them. He is hunting out somewhere to get it now for me and I had to borrow from the hon. Minister for certain references. I am not getting the copies and that is our difficulty. I am glad we have come to an arrangement. But let me tell you that that is not sufficient. Sir, you must compel all the Ministers that they must supply these copies to all the members.

I have been rather surprised that you have in your Secretariat issued an order that the verbatim report of the questions and the proceedings should be circulated and I was simply surprised and even amazed that within 12 hours the whole proceedings of day before yesterday are there in the library. What a fine thing! It is cyclostyled and I am going to request your office to kindly supply a complete cyclostyled copy to each member. I hope you will be good enough to supply this copy. I repeat I am simply surprised how your Department has been able to produce a document of the proceedings and keep it in the library within such a small space of time. I give all the credit to whosoever originated this measure. Our ministers should also bear that in mind and these important points, they must also understand. This is not the first time that we have been telling them.

I hope Sir, my reference to this and my other friends who have made a grievance will not be now thrown aside and the hon. Minister will bear in mind and supply these copies. I do not think the question of paper should come in a matter like this. Why are we here? We are legislators and the legislators are not supplied with these materials. On Monday this Bill is introduced and on Thursday we are asked to pass it. We have to study this volume of literature if we are really to do justice. Let me tell you, that we cannot do justice, because we have not studied them in the true sense. This report is required by each member and there are so many members who are anxious to study.

Now I come to the reference to the Tariff Board for protection of industries. We are all anxious that our industry should be protected. There is no doubt about it. No one in this House desires that the industries should be protected at the cost of the consumers. During the British days we protected them simply because we stated that when the time comes this industry will be beneficial to the country. Now the reference to the Tariff Board is made mostly for the benefit of the industry and not for the tax-payer or the consumer. In the terms of reference it is stated that in making the recommendation the Board is required to give weight to the interests of the consumers. Now as far as the industry is concerned, there are five items there. I received Sir, a few days ago, a questionnaire regarding the protection of sugar industry that the Tariff Board is now considering. There are 107 questions and only seven or eight questions relate to consumers. I fail to see why so few questions are mentioned for consumers. The questions to consumers are: how much sugar you consume per month? What is the price and how much are you paying, and do you think the industry should be protected or not? Some six or seven questions are for the consumers. My point is that the Tariff Board is under the impression that the Board is especially for protecting the industry, right or wrong. That policy should be revised. I feel that questions should be put into the industry itself. Have you borne in mind at any time the interest of the tax-payer and the consumer to make your industry self-supporting? Have you at any time borne in mind that you can compete with foreign countries? If

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not, what are the reasons? What are your over-head charges as far as the country's money is concerned? These questions are not there. How much have you been producing? What are your over-head charges? These general questions are there. My point is that the hon. Minister must change his terms of Reference in the light of the new circumstances in which we are working now.

He must know it is no use telling us that the legislature has given him power. The whole legislature has given him power but that is not the reason why he should take pride in it, and say what he has done is constitutional. The whole point is whether he really feels that this is the view of the House and whether he is acting really as the House desires him and not because some legislature has given him the power and in view of that he gives sanction to the protection in anticipation of the House. I hope he will really bear in mind the criticism levelled. None of the four members who have spoken have given their wholehearted support to the Bill. Others have given their qualified support. I am also giving my qualified support, because I know that devaluation has opened our eyes. We want to make our industries self-supporting. This morning I put a question about the tool-making industry. I am very glad to know that the axe has not fallen on such an important industry. I want such kind of industries, whether with or without loans, to be started immediately, so that all our difficulties might be removed. But that does not mean that the hon. Minister should at the cost of the tax-payer go on helping them without any reason year after year. It is said that the protection for aluminium industry is up to 1952 but that it will be considered after 1952 if necessary. Is there any policy or system guiding them? Why can't such of the industries which have been in existence for over a decade stand on their own legs. Sugar protection is coming at a later stage and again they are going to give them protection. Last year it was definitely stated that we are going to give only one year extension and not more. I know what will be the fate of the sugar industry. For the last 17 years the industry has been getting protection and they are not even able to give us sugar at a price which the average man can afford. My friend the Deputy-Speaker made out a good case regarding aluminium. First we started making utensils and now thank God, we have the raw material. Government must give their proper attention to this and make a reference to the Tariff Board in the manner that the country desires. When we say that an industry is protected it does not mean at all costs. I want the Minister to remember that. If the Ministry at a later stage feels that the industry does not behave properly instead of nationalising it I would suggest that they should take it over and work it themselves.....

Shri B. L. Sondhi (East Punjab: General): Without compensation?

Shri R. K. Sidhva: There is no question of compensation. The property will be theirs but we shall manage it and give the product to the consumer at a very cheap price.

Shri B. L. Sondhi: What about loss?

Shri R. K. Sidhva: There will be no loss. This aluminium concern can be self-supporting without any protection. We are losing in revenue by giving them protection. If we were to import from foreign countries we will get the goods at a much cheaper price. It is the poor man who uses aluminium vessels and yet we are prepared to help the industry financially. The same policy of the olden days is continued. Our views are not at all respected. The hon. Minister should make clear to the House whether he took note of what we said last time. What promise he made even last time he will bear in mind as far as this industry is concerned.....

The Honourable Shri K. C. Neogy: This industry?

Shri R. K. Sidhva: This industry also came under discussion. Here is a recommendation made by the Tariff Board:

"Government should help the rolling mills to procure modern up-to-date equipment from abroad as soon as possible."

This is a useful recommendation. Instead of giving the industry facility for importing machinery the Government today do not allow them to import the kind of things that they want for the benefit of the country and go on giving protection without any consideration. I want to know whether the hon. Minister has taken note of the recommendation. If anything is needed for the expansion of the industry to bring down the prices what steps have Government taken in that direction? If machinery is required for expansion Government should see that this machinery is brought even at the cost of a few dollars or sterling. If that is done I am sure they will be able to stand on their own legs, and in respect of aluminium products we will become self-sufficient. I am also anxious that a steel factory should be started and also hydro-electric plants installed. This tractor business should stop: we can do without tractors. We can use our ploughs and sink wells but we cannot do without hydro-electric or steel plants or tool-making machines. Government should have that kind of policy instead of a haphazard policy which they now have. One Minister does one thing and another Minister does another thing. If the Food Commissioner wants to produce more food another Minister takes away acreage from sugarcane, a third Minister wants more cotton and a fourth more jute. They are all there in the melting pot all the time. Why can't they consider in the Cabinet what is really needed for the self-sufficiency of the country as a whole?

With these words, Sir, I am also giving helplessly my qualified support to the motion.

Shri Prabhu Dayal Himatsingka (West Bengal: General): Sir, I beg to support wholeheartedly the Bill introduced by the Minister of Commerce. The Bill is based on the recommendations of the Tariff Board. A copy of the recommendations was placed in the hands of the members of the Standing Advisory Committee attached to the Commerce Ministry and they also agreed that the Minister concerned should bring forward a Bill to give the protection recommended by the Tariff Board. The Tariff Board went into all the facts and figures and considered the case from all points of view and the Tariff Board has made its recommendations taking into consideration the needs of the industry and also keeping in view the fact that the consumers have not to pay more. It has been admitted that the aluminium industry is a very important industry for various purposes both during war and peace and it is one of the metals which is being very largely used for various purposes, domestic utensils, aeroplanes, motor cars, etc. Unless the country is in a position to produce its own requirements we will always be dependent on foreign countries and be in difficulty for exchange. As a country cannot depend on foreign countries for all time at a certain stage the consumers have to pay a little more in order that the country may become self-sufficient....

Shri T. T. Krishnamachari: In order that the industrialists may make more money.

Shri Prabhu Dayal Himatsingka: So far as this question is concerned I can speak from personal knowledge that this industry was started by certain persons in Bihar and Bengal combined—the Aluminium Corporation of India at Asansol. The original estimate was that they will have to put in about 30 lakhs. Practically throughout the world the aluminium industry is controlled by Canadian interests. If you want specialists you have to look to them, if you want machinery you have to look to them. In spite of all these difficulties

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certain persons took into their heads to start this industry. When they started it they found that the capital they had been able to raise was short. Therefore for some time further progress remained closed and then negotiations were started by these parties with another big firm of industrialists. They are the persons who are now in charge of the management. They thought that about 75 lakhs would be sufficient to make the industry go but to their utter surprise they found that even when they had put in about 1,20 lakhs it was not sufficient to start the factory. Under those difficult circumstances this Indian company

at Asansol was started. They have been losing. I can speak from my personal knowledge that the shareholders who hold preferential shares—to whom they have agreed to pay five per cent. dividend per year—have not been paid any dividend for the last five years. Five years' dividend is in arrears.

An Honourable Member: That is always the case.

Shri Prabhu Dayal Himatsingka: This industry has been started under these difficult circumstances, and if we speak in a different tone, not being in possession of the full facts, we cannot help it. But it is certainly the duty of the Government and of the country to help those persons who have taken the courage to run certain amount of risks and put in a lot of money so that India may become self-sufficient in aluminium. You will find that the other company, the Indian Aluminium Company, can beat any Indian company with cheaper goods. But what will be the result? If we do not have a factory in our own country and if the factories of the country are eliminated then they—the foreign interests—will be able to dictate their terms and charge any price they want. That is the reason why for a certain period the country has to support any new industry that is started which is necessary for the good of the country and which needs protection. That is why this measure is absolutely necessary, and I whole-heartedly support it.

श्री श्री हिममतसिंह : सभापति महोदय, इस प्रस्ताव का समर्थन करते हुए मैं यह नम्र निवेदन किये बगैर नहीं रह सकता कि यह प्रोटेक्शन देने की नीति बहुत दिन तक जारी नहीं रह सकती है। बहुत सारे घन्ठे ऐसे हैं जिनको कि काफ़ी साल में प्रोटेक्शन देने वाले आये हैं और कई साल से कन्वर्गर्स बाटे में रहने वाले आये हैं। अभी श्री हिममतसिंह जी ने अलमूनियम इंडस्ट्री का जिक्र किया लेकिन अगर आप खांड की इंडस्ट्री की तरफ ध्यान देंगे, तो पता चलेगा कि टेरिफ बोर्ड किस तरीके से कन्वर्ग करना है। टेरिफ बोर्ड ने खांड को भी मरजग के लिये रेकमेन्ड किया था। खांड की इंडस्ट्री के बारे में यह बतलाया जाना है कि बहुत सारे कारखाने ऐसे हैं, जो सौ फीसदी तक मुनाफा तकसीम करते हैं। दूसरे उनके अलावा यह मान भी लिया जाये कि बहुत सारी इंडस्ट्रीज को प्रोटेक्शन की जरूरत है, तो भी मैं समझता हूँ कि देश की अर्थिक दशा आज ऐसी हालत पर पहुँच गई है कि हमको प्रोटेक्शन बड़ा मोठ सनज कर ही देना चाहिये, और वह भी उन्होंने इंडस्ट्रीज को देना चाहिये जो चन्द साल के अन्दर अन्दर दुनिया के साथ मुकाबिला कर सकें, और जो इंडस्ट्रीज दुनिया के साथ मुकाबिला नहीं कर सकती और देश के डिफेंस के लिये भी नहीं हैं, उनको मैं समझता हूँ कि प्रोटेक्शन नहीं देना चाहिये।

सभापति महोदय, एक और मेरा नम्र निवेदन है। मैं बी० दास जी की तरह से इस बात पर यकीन करता हूँ कि हमें प्रोटेक्शन देने के लिये मजबूर होना पड़ता है, इसका एक कारण यह भी है कि इंडस्ट्रियाँ ठीक जगह स्थापित नहीं की जाती हैं। मेरी भी उनकी तरह से यह ख़्वाहिश है कि पंजाब के अन्दर जो बखरा डाम और नांगल प्रोजेक्ट्स हैं जिनसे कि बिजली पैदा की जायेगी, बेहतर होगा कि ऐसे स्थानों पर अलमूनियम जैसी इंडस्ट्रीज डेवलप की जायें। लेकिन बदकिस्मती यह है कि हमारे देश के लोग जो इंडस्ट्री चलाने की तरफ ध्यान रखते हैं, उन सब की दृष्टि सिर्फ बड़े-बड़े शहरों जैसे बम्बई, कलकत्ता की तरफ ही रहती है। जो भी कोई इंडस्ट्री लगाना चाहते हैं, उन्हीं शहरों की तरफ भागते हैं। मैं अपने कामर्स मिनिस्टर साहब से यह उम्मीद करूँगा और उनसे यह चाहूँगा कि उन्हें यह खयाल रखना चाहिये कि यह जो सैन्ट्रलाइजेशन इंडस्ट्रीज का हो रहा है, इसको रोकें।

एक बात और मैं जो समझता हूँ, और वह शायद टु दी प्वायंट न हो, मगर आज मेरे दिल में बड़ा दर्द है। अभी सिधवा साहब ने भी एक बात कही थी। एक तरफ अनाज की कमी का सवाल उठाया जाता है, दूसरी तरफ जूट का सवाल उठाया जाता है, तीसरी तरफ खांड का सवाल उठाया जाता है। यह बात बिल्कुल सही है कि जब तक देश की इकानामी बिल्कुल एक सोची समझी, मंजी मंजूर नहीं बनाकर चलाई जायेगी देश की तरक्की सन्तोषजनक ढंग से नहीं कर पायेंगे।

अभी आज का जिक्र है कि पंजाब के चीफ इंजीनियर साहब दिल्ली के अन्दर आये हुए हैं और कुछ दूसरे एन० एल० एज० साहबान उनके साथ आये हैं, वह इसलिये कि पंजाब के अन्दर जो बड़ा भारी बांध बांधा जा रहा है। जहाँ काफ़ी हद तक प्रोग्रेस भी कर पाये हैं और उससे जिस वक़्त बांध पूरा होगा, अनाज की कमी काफ़ी हद तक दूर हो जायेगी, और बिजली काफ़ी तादाद में पैदा हो सकेगी, और प्रान्त के अन्दर तरह-तरह के कल कारखाने लगा सकेंगे। लेकिन बदकिस्मती यह है कि जितना रुपया सरकार ने देना किया था या जितना रुपया हिन्द सरकार ने पंजाब सरकार को देने से इन्कार किया है, अगर उससे फ़ालतू रुपया सरकार ने नहीं दिया, तो हो सकता है कि जितना रुपया उसमें लगाया गया है वह तमाम का तमाम जाया हो जावे। क्योंकि एक सुरंग (Tunnel) खोदा जा चुका है। वह भी फट जायेगा।

Mr. Speaker : The details of that will be irrelevant.

Ch. Ranbir Singh : Sir, I bow to your ruling.

मैं इस सिलसिले में इतना ही निवेदन करना चाहता हूँ कि इनके साथ साथ तमाम देश की सारी इकानामी का नाता जुड़ा हुआ है, और जैसा कि मैंने जिक्र किया अगर वह नहीं बन पाती है, तो सबसे पहले उसको प्रायिडि देने चाहिए और दूसरी चीजें बाद में आ सकती हैं। मैं बी० दास की तरह से यह चाहता हूँ और यह प्रार्थना करता हूँ कि कामर्स मिनिस्टर साहब से जितनी इंडस्ट्रीज को प्रोटेक्शन दिलाना चाहते हैं, दिलायें, लेकिन वह कम से कम इतना ध्यान में रखें कि आगे जो इंडस्ट्रीज बनें, वह ऐसे इलाकों में बनें, जहाँ हाईड्रो इलेक्ट्रिक स्कीम की भाँती भारी स्कीमें हैं। इतनी बातें कहते हुए मैं अपना भाषण समाप्त करता हूँ।

(English translation of the above speech.)

Ch. Ranbir Singh (East Punjab: General): Sir, while supporting this resolution I cannot stop without humbly submitting that this policy of giving protection to industries cannot continue for long. There are certain industries which have been enjoying protection since long with the result that the consumers have been sustaining a great deal of loss. Just now Shri Himatsingka made a mention of the aluminium industry. But if you would take into consideration the sugar industry you would come to know how the Tariff Board functions. The Tariff Board had recommended the sugar industry for giving protection. It is generally said about the sugar industry that some factories pay out a hundred per cent. dividend. Secondly if it be taken for granted that all the industries stand in need of protection I feel that the economic condition of the country has reached such a stage that we should grant protection after much deliberation, and should grant protection only to those industries that would be able to withstand world competition after a few years. The industries that cannot withstand world competition or are in no way connected with the defence of the country, I think, should not be granted protection.

I wish to make one more humble submission. Like Shri B. Das I also believe that we have been compelled to grant protection to certain industries due primarily to the reason that the industries are not located at proper places. I share his desire that it would be better if the aluminium industry is developed at such places in Punjab where the electricity from the Bakhra and Nangal Dams will be available. But unfortunately our industrialists keep only big cities like Calcutta and Bombay in view. For every industry they want to set up, they rush to these places. I would expect and request the hon. minister of Commerce that he should better try to put a stop to this present tendency of centralisation of industries.

Another thing I wish to mention may not be to the point but I feel it very much. Just now Shri Sidhva has stressed a point. On one side the question of food shortage is raised; on the other side the question of jute is raised; while on the third that of sugar industry is raised. It is quite true that till the time national economy of the country will not be co-ordinated and conducted on well-considered and tried lines we will not be able to make satisfactory progress in the country.

These days the Chief Engineer to the Government of Punjab, along with some M.L.As. is in Delhi for the reason that a big dam is under construction in Punjab. The construction work on the dam has well advanced and when it is completed the food shortage of the country will, to a great extent, be removed. Sufficient electric power would be generated and many factories and machines could be run. But unfortunately if the Central Government do not pay the capital grant promised to the Government of Punjab or decline to give that amount, it is feared that the entire money so far spent on the construction of the dam would be totally wasted. A tunnel has already been completed and that also will crack.

Mr. Speaker : The details of that will be irrelevant.

Ch. Ranbir Singh: Sir, I bow to your ruling. In this connection I wish to say only this much that all these things are highly inter-connected with the national economy of the whole country. And if the matters could not be managed as I have just suggested, then at least this may be given a decided priority and all other things may wait. Like Shri B. Das I also wish and request the hon. Minister of Commerce that he may get protection granted to whatever industries he likes but he must at least keep this in mind that in future all the industries that are to be set up may be located at such places where huge hydro-electric schemes are present. Submitting this I close my speech.

The Honourable Shri K. O. Neogy: Sir, several hon. Members have made a complaint that certain undertakings that I had given previously with regard to the procedure to be followed in the matter of consideration of recommendations of the Tariff Board in such cases have been departed from. I took care to obtain a copy of the proceedings of this House where there are references to this particular point. The discussion took place on the 7th September 1948 when another Bill to amend the Indian Tariff Act was under consideration. That particular Bill concerned itself with as many as twelve industries and it was for that reason that I had circulated a sort of broad sheet giving briefly—very briefly indeed—the scope of the proposals of each of these amendments. In the course of the debate on that occasion reference was made to the past practice under which each hon. Member was supplied with a copy of the Tariff Board Report. And on that occasion, just as on this, I pointed out that we are not free agents in this matter, that this has been imposed upon us as a measure of economy and copies that are available being very much less in number the best we could do is to place them in the library in the hope that hon. Members would find it possible to make use of them. On that my hon. friend the Deputy-Speaker made the following observation:

“May I suggest to the hon. Minister that in keeping with the earlier practice, as soon as the Government comes to a conclusion and passes a Resolution, to print and circulate the Report as far as possible. If it is possible the practice may be pursued hereafter.”

I am afraid we have not found it possible to comply with that suggestion. As a matter of fact, I am just now reminded that there is a fresh warning from the Ministry of Works, Mines and Power which controls the printing of the proceedings of this House as also of other Government publications, to the effect that they cannot undertake to print any more copies of such reports.

Prof. N. G. Ranga: Apart from all this quibbling, is it impossible for the Minister to supply at least a summary?

Mr. Speaker: Order, order. Let there be no heat over this question. We are all interested in economies and I was considering some other measure about it. I have also been carrying a feeling that we are perhaps unnecessarily wasting a good deal of paper and printing, in circulating each and sundry paper to every Member. I was, therefore, thinking of another alternative and that is

[Mr. Speaker]

that a certain number of copies may be printed or cyclostyled and each Member be informed that copies are available and would be supplied only to those who ask for it. If we could set up to any such thing, I think we should be able to economise and yet we shall leave no ground for complaint. I may tell you that my experience in another House was that when Members are requested to make a choice as to what publications they want, the usual reply is, "All the publications". That is why I was suggesting this alternative. Hon. Members might have also seen that, in this House, when a particular Bill goes on from day to day, the practice that I have been following now for the last one year has been not to place a fresh copy on the table of each Member every day as the Bill proceeds, but to supply a copy once for all with a request pasted on it that the Members are requested to preserve the copy and bring it with them. Yet, I am keeping a few copies in the Notice Office and Members are informed that who-soever loses his copy or forgets to bring it may be supplied with a copy. So, such *via media* may be found and I don't think we need pursue the matter further.

The Honourable Shri K. C. Neogy: I bow to your decision, Sir, but I was going to add that in highly technical matters like the report of the Tariff Board it would not be proper to attempt to make a summary of the recommendations or conclusions of the Report without, say, giving the summary of the text which is of a very technical character. Therefore, either it is the whole report that is to be circulated or by a summary we may not be doing justice to the report of the Tariff Board. I say this with regard to the suggestion that fell from my hon. friend Prof. Ranga.

Mr. Speaker: I was not referring to any summaries. I was thinking of having only a limited number of copies printed and then those who want a copy will have it by application to the Department.

The Honourable Shri K. C. Neogy: I don't think I would pursue that point any further.

Some amount of criticism has been made of the procedure which the Tariff Board follows in conducting such enquiries and some amount of dissatisfaction has also been expressed in the personnel of the present Tariff Board. I am not here to defend the Tariff Board nor do I think that the present members and the President of the Tariff Board need any defence at my hands. All I can say is that the whole future of the Tariff Board would depend upon Government's decision on any recommendation that the Fiscal Commission may make in that behalf. The Fiscal Commission is expected to go into the question of the future composition of the Tariff Board, its functions and procedure and so on. I would only request my hon. friends to wait for a little while so that we may know from the Fiscal Commission what they think of the position as it now obtains and what reforms they propose.

I might remind my hon. friend Mr. Krishnamachari that it is not one Tariff Board that dealt with this matter. I don't know whether he has no confidence in any Tariff Board whatsoever because the Tariff Board that went into this matter initially was the Tariff Board which was presided over by Shri Shanmukham Chetty and when later on, in the light of the circumstances that developed after that report had been made, the Government came to certain tentative conclusions as regards the variations that would be needed in the recommendations of the Tariff Board, the Government placed their proposals before the present Tariff Board which is, with the exception of one member, entirely different from the one that actually recommended protection, and this Tariff Board also have unanimously recommended protection on the lines that I have sought to embody in this particular measure.

Some reference has been made to the arrangement under which one of the companies has to send its raw material from Bihar to Travancore to be treated there with the help of electricity which is found in abundance and is also cheap. That, I am afraid, is a matter in regard to which Government had absolutely no hand. Whatever view my hon. friend Mr. Biswanath Das may take of it, I may tell him that these two concerns came into being about 13 or 14 years ago. One was established, as far as I can recollect, in 1936 and the other in 1937. Government had no hand in the determination of location of these two concerns at the time. They were promoted by private enterprise as in the case of many other industries and the promoters chose the places of their business. In future it is definitely Government's intention to determine the location of industry on a planned basis having regard to the natural facilities that any particular place may enjoy as compared with any other, but so far there has been no definite attempt at regulation of location except in the case perhaps of a few categories of industries that go by the name of "planned industries" which came into being only very recently. But my point is that if a particular industrial concern manufacturing aluminium has thought it best to locate its factory at some particular place, for that Government is not responsible. But as I have expressed my hope, even these locations may be found to be extremely convenient once, for instance, hydro-electricity is available in one case, *e.g.*, in the case of the factory concerned located at Asansol which is definitely within the ambit of the Damodar Valley Project.

As regards the aluminium concerned, I don't know anything about the location of bauxite, I hope it may be possible to locate bauxite nearer Alwaye in Travancore than in Bihar at Mori. But then, may I point out in this connection that when we analyse the cost of production of these two concerns we find that the cost per unit on account of power is Rs. 244 in the case of the factory that takes its products to Travancore for being processed as against Rs. 840 in the case of the other concern which processes the thing on the spot in Asansol. Now, obviously there is a good deal of advantage in carrying the stuff from Bihar to Travancore. As a matter of fact, the difference in the cost of production by the unit is largely accounted for by this difference in the cost of electricity.

Shri T. T. Krishnamachari: Why not carry everything to Alwaye?

The Honourable Shri K. C. Neogy: That is exactly what I want to know. That is a private concern and if my hon. friend can find suitable bauxite deposits near Travancore I take it he should communicate the suggestion to the company concerned.

My hon. friend wanted to know something about the cost. The cost of production on the basis of which we propose to pay the subsidy is, in the case of the aluminium company—the one which has to carry its stuff to Travancore—(I am giving the total cost) is Rs. 2,364 and in the case of the other concern it is Rs. 2,818. The landed cost of ingot pre-devaluation was Rs. 2,000. It is too early yet to say definitely what the effect of devaluation would be upon the cost of the imported material. That is the reason why it is not possible for us to take that uncertain factor into account for the purpose of determining as to whether the protection we are proposing under this measure is more than adequate and could afford to be reduced in quantity. There are so many factors that operate in such matters that the percentage increase in the price on which we seemed to be proceeding as inevitable on account of devaluation may not actually take place. I am glad my hon. friend Mr. B. Das made the point that it is too early yet to find out the effects of devaluation and I should remind the House that although the protection envisaged is for three years, we definitely contemplate an enquiry by the Tariff Board into the circumstances relating to the manufacture of aluminium in this country just after a year from now. It will be time then to find out to what extent our calculations have to be adjusted on account of devaluation or any other factor.

[Shri K. C. Neogy]

My hon. friend Mr. Sidhva raised the question as to whether the interests of the consumer are at all borne in mind while drawing up proposals for protection of this kind. As a matter of fact, I could not think of a better case from the point of view of the consumer than the one that I have presented to the House. Actually, it is really half the difference between the landed cost of the imported stuff and the cost of manufacture of the local commodity that is sought to be met by the imposition of a specific additional duty. The other half of the difference in these two costs is going to be met by way of subsidy and as far as present calculations go, Government are not going to make any profit out of this transaction. The revenue derived from the additional specific duty may just suffice for the payment of the subsidy. I could not think of any better case than this for the purpose of supporting the plea that the consumers' interests are always borne in mind in such cases.

Now, I come to a point of some importance. Enquiry was made as to the composition of the shareholding interests of one of the companies. It is true that one of the two companies which was promoted by foreign interests has got a share capital in which the Indians own a minority interest. I think—I speak subject to correction—that the Indian section of the share capital is about one-third of the whole; one-third being owned by Canadians and the other one-third being owned by the British people. It is at the same time a fact that this company has got a number of Indian Directors. The Chairman of the Board of Directors is an Indian and it has taken steps for the purpose of getting Indians trained in the technical processes at their own cost and to see that the technical staff is considerably Indian in character.

As regards the question of policy in this matter, the House is aware of the statement made by the hon. the Prime Minister on the question of investment of foreign capital. That statement, as far as one can interpret it, proceeds on the assumption that the existing foreign concerns will not suffer from any disability howsoever they may be composed. So far as the concerns which are operating today in India go, they are to benefit equally from any measure of protection that we may bring forward. The conditions which the hon. the Prime Minister laid down as regards the composition of the Directorate and the proportion of the Indian capital and all that were intended, as far as one can judge, to apply to new capital coming into the country and as a matter of fact, so far as the new concerns go, they will be entitled to function only on the permission granted to them, and at the time of giving such permission, all the relative conditions will be made. So far as those concerns which have been established in the country go, there is no intention to discriminate against them, nor indeed to enforce the conditions which apply to new ventures which may come from outside.

Shri M. Ananthasayanam Ayyangar: May I ask the hon. Minister if he reads into the Prime Minister's statement the meaning that bounties are to be given to such companies?

The Honourable Shri K. C. Neogy: I am glad my hon. Friend has raised that point. I should like to state that we protect an industry, not specific industrial concerns. If protection is granted under the system now proposed, namely, by a combination of the tariff and bounty method, every concern belonging to that particular industry should benefit equally. I repeat we protect an industry, and not individual concerns.

Prof. N. G. Ranga: Will that not be subsidising inefficiency also, if you do not make any distinction?

The Honourable Shri K. C. Neogy: Of course, not. The greatest safeguard against inefficiency is the periodical enquiry to be made by the Tariff Board. Indeed, the Tariff Board has under its new terms of reference the authority to make enquiries and report on protected industries.

Shri T. T. Krishnamachari: Is it a fact that relatively the non-Indian concern is the more efficient of the two?

The Honourable Shri K. C. Neogy: I am not in a position to make a general statement on this particular subject, but I hope the House is not becoming sceptical of the benefits of protection. (*Prof. N. G. Ranga:* No.) I do not think I should take the time of the House for giving a discourse on that particular subject. But I should like to remind the House that it is due to protection that industries like the steel and cotton textiles are today in the position they occupy. Let me tell the House that so far as Indian steel goes, it is the cheapest steel in the world today. So it is not quite right to suggest that by giving protection we are merely spoon-feeding inefficiency and there is no hope of any improvement taking place. The enquiry is going to take place just a year hence and then again, in no case will the present measure be extended necessarily beyond three years unless the Tariff Board and the Government are agreed that a case exists for protection. Here again, for instance, this very Bill indicates that even during these three years, we contemplate a graduated reduction in the rates of duty. That is on page two of the Bill. I humbly submit that nothing further could be done by Government for the purpose of ensuring the future efficiency of these concerns as also the interests of the consumer.

Shri B. P. Jhunjhunwala (Bihar: General): Sir, may I ask one question? May I know the basis on which the bounty will be determined—whether that bounty will be divided in the same proportion between the two concerns?

The Honourable Shri K. C. Neogy: I am very glad my hon. Friend raised that point. I did not want to overburden my speech with statistics of this kind. We have worked out the bounty separately for the two companies, bearing in mind the difference in the cost of production of the two companies—that is what has been done. Simply because one company cannot produce the stuff except at a higher cost than the other, the other company does not benefit by the higher rate of bounty that we pay to the first company.

Shri M. Ananthasayanam Ayyangar: The hon. Minister knows that there were some non-discriminatory clauses—clauses 111 to 115 of the old Government of India Act. They were omitted in the adapted Government of India Act and they don't find a place in the New Constitution. In view of this fact that we can discriminate, if necessary, will the hon. Minister consider the desirability of withholding bounties from the foreign companies, until the shares are held between Indian and foreign capital in the proportion of 51:49 per cent.

The Honourable Shri K. C. Neogy: Of course, Government are at liberty to do whatever they like and this Legislature as a sovereign Parliament can lay down the law for the Government in this matter.

But I am afraid it would not be right to insist upon a reconstruction of that company on that basis. What may be done, and may possibly be done, even at this moment is to make suggestions to the company that they might consider the question of reconstruction of their capital structure so as to give the Indians the majority of the shares. I understand that this company has applied for an expansion of its capital to the Capital Issue authorities. This question may be informally raised in that connection, but I would deprecate very strongly any idea of enforcing a formula upon concerns which have existed in this country for some time and are otherwise eligible for protection.

Mr. Speaker: The question is:

"That the Bill further to amend the Indian Tariff Act, 1934, be taken into consideration."

The motion was adopted.

Mr. Speaker: As there are no amendments I may put both the clauses at the same time. 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 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.

DELHI ROAD TRANSPORT AUTHORITY BILL

Mr. Speaker: We will now proceed with further consideration of the motion of the hon. Shri K. Santhanam for referring the Delhi Road Transport Authority Bill to a Select Committee.

Shri T. T. Krishnamachari (Madras: General): Sir, I rise to intervene at this stage in the debate on this Bill for the reason that I am familiar with the circumstances under which this concern came into the hands of the Government of India.

Sir, it was some time in March 1948—almost the last week of March—that the Standing Finance Committee were asked to approve a proposal to acquire this concern and I must also admit that in the purchase of this concern and in the amount of money paid to the original owners of this concern I cannot altogether plead ignorance or non-culpability. In fact it was represented to us that the concern would have to be purchased before the 31st of March and that the Government would have to take over the property of the original owners as it were without any further scrutiny or examination. It is rather an impossible position—a position I think which is not infrequent so far as the committees of this House are concerned—forced on them by the actions of the executive. So, this concern became a Government concern without any very great scrutiny, without even the exercise of those advantages that a Government normally possess in the matter of bargaining power. It appeared thereafter from the information that I was able to obtain that the Government had made a bad bargain and the only people who profited by it were the original owners who pocketed a tidy sum and got away with it.

Sir, criticisms have been levelled at the manner in which this concern is being run. As I explained at the outset, there was an initial handicap which the Government had to face for various reasons and for all of which they were not entirely responsible. As a man who sees these buses running in this House, I cannot say I am proud of this one Government venture that is being carried on in the capital city of this country which I am afraid is a point against nationalisation to which principle, so far as public utilities are concerned, I think everyone in this House is wedded.

The appearance of these buses, the old ones, is something awful. The new ones look no better. Some of them look clean outside, but once you get inside it looks as though the seats have never seen any kind of disinfection for months past, and the whole atmosphere is one of filth and squalor—a thing perhaps which

is a common feature in the whole city of Delhi, the capital of this great and free country. Sir, oftentimes when hon. Members in this House level criticisms—criticisms of a carping nature—against Provincial administrations, I wonder how many of them have looked into the administration of the City of Delhi which is under the direct control of the Central Government and which from every point of view compares badly with the administration of any first-class city in any of the provinces or the major Indian States.

Well, I know that the hon. the Mover of this measure is a person who goes into the minutest details of anything he handles and very possibly he is aware of the fact that the condition of this transport concern is not very good and he might probably take steps to improve the position very soon. At the same time, I would like to mention another fact, namely that perhaps the Delhi Transport concern is the costliest concern, so far as the consumer is concerned, in the whole of India. I do not know how many hon. Members travel in the buses belonging to this Corporation, except in that beautiful cream-coloured bus that takes them to and from the Western Court or the Constitution House every day. If they had they would have found that they have to pay four annas to travel from Connaught Place to the Council House and if they are wise they would get down at the Broadcasting House and save one anna and if they are wiser still they will walk up to the Regal Cinema to board a bus and save two annas. But, anyway, these are things which one learns after the initial payment of four annas. When one who is a Member of the House pays four annas he easily reconciles himself to that exorbitant fare because of the fact that he is getting Rs. 40 a day free of income-tax which most people employed in this big city do not get.

Sir, this transport concern which this Bill tries to improve or make worse as the case may be when it is actually put into operation or rather this measure which seeks to establish this transport concern—as I said before I have very great respect for the capacity for detailed scrutiny of the hon. Mover—has not, I am afraid, received the same amount of attention he is accustomed to pay or, at any rate, he was accustomed to pay when he was a private Member working with other private Members like me in the past. It is a badly drafted Bill, a very badly drafted Bill.

Shri M. Ananthasayanam Ayyangar (Madras: General): He has got the assistance of his erstwhile comrades.

Shri T. T. Krishnamachari: His erstwhile comrade deserts him for the temporary occupation of the Chair. I am afraid that is the fate to which my hon. Friend is reduced to.

Now I will take up the question of the constitution of this Transport Authority. I was wondering where they got this idea of constituting an Authority of this nature. Sir, a transport authority should have intimate and detailed knowledge of the working of the transport system and should be available for frequent meetings of the Authority now and again. For that matter we have three non-officials to be nominated by the Central Government, three officials to be nominated by the Central Government representing the various Ministries and the Chief Commissioner of Delhi or his nominee. These seven constitute the executive authority. I cannot see from where they are going to get the non-officials with requisite knowledge of either business or of transport concerns and I fail to see.....

Shri B. K. Sidhva: (C.P. and Berar: General): He has debarred us by section 6! A Constituent Assembly Member cannot become a Member. He is debarred.

Shri T. T. Krishnamachari: It is a very good thing we are debarred. But I do not know where these three non-officials are going to come from. I should

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think it is not very wise to tack on three officials who are perhaps already over-worked and would not be able to devote any time and very often they would not be present at the meetings of this Authority.

My hon. friend Mr. Santhanam is in possession of a copy of the London Passenger Transport Board Act. It is probable that he has not got much assistance from that particular enactment for the reason that the main body of it deals with the question of compensation and the question of taking over other concerns and so on. But one note-worthy feature of that enactment is the manner in which the executive authority is constituted. The executive authority is constituted by a set of trustees—men whose position cannot be impeached, whose intentions cannot be impeached and who have a certain amount of status and experience in life. I would like to tell the House and also the hon. Mover that the first two attempts made by this Board of Trustees to select an executive for the London Passenger Transport Board has met with such success that it was acclaimed by all persons who were students of Public Utility Management. The first two executives of this Board turned out to be good. The result was that before the war this Transport Board was really making a profit which it has not been doing since. I do not say that this Act must be copied. At any rate the Board of Trustees functioning under this Act really selected the proper type of executive. But I am afraid the composition of this Authority as envisaged by this Bill would not perhaps make it very convenient for my hon. friend to select a proper man for being the executive authority for this concern who would work unfettered by pin-pricks and day to day interferences. I am afraid that in a matter of this sort which is an experiment in nationalisation we cannot be overcareful. I am most anxious that it should not go the way that other experiments at nationalisation by the provincial Governments have gone.

Shri M. Tirumala Rao (Madras: General): For example, what?

Shri T. T. Krishnamachari: It is a fact undoubtedly that other experiments in the provinces about which I know have not worked well. I am most anxious therefore that this should not suffer the same fate. Therefore it seems to me that the Select Committee will have to think hard to find a substitute for the type of composition of the authority that is envisaged in clause 4 of this Bill. I would suggest that it should be a smaller body, that Government representation therein should be confined more or less to the Finance Department and that it should lay squarely on some officer the responsibility for being the financial counsellor for this authority. And the Transport Ministry need not be represented therein as the ultimate responsibility of the Transport Ministry is always there. The Transport Ministry is not going to give away to this Authority all its power without keeping some power in its own hands. Therefore I do not see why anybody from the Transport Ministry should be there, as it were to act as a spy on the working of the Authority who would carry tales to the Ministry from time to time. I would suggest to the Select Committee to look carefully into this particular clause 4 and see if it cannot be modified suitably.

One other important matter in my opinion happens to be the provision regarding finance, audit and accounts. The capital for this concern would be entirely given by Government from time to time. My hon. Friend the Mover said the other day that the profits were fairly large. I suppose it was a very unwise statement to make when the representative of the Trade Union attached to this concern is in the House. But I do not think it is quite correct because the profit might have been arrived at by various methods of accounting which probably were not the correct ones. Actually it seems from the condition of the buses operated by this concern from the amount of depreciation they appear to have suffered and the lack of repairs all of which are self-evident, the

amounts saved on these items have helped to make the profits look larger. If money had been spent in proper time on repairs and these buses kept in a reasonably clean and working condition, perhaps the profit would have been nothing like ten lakhs.

Shri B. L. Sondhi (East Punjab: General): What about income-tax?

Shri T. T. Krishnamachari: Mr. Sondhi would like to kill every concern by putting the income-tax on it. I would come to that aspect later.

As the capital is found by Government, apparently interest is to be paid by them on capital. What interest the Government wants will be paid. Surely Government will not demand an exorbitant interest. But supposing there is a loss, it will have to be met either by cutting into the capital or by the Government shouldering the loss and putting it into the General Budget.

An Honourable Member: Reserve Fund.

Shri T. T. Krishnamachari: The reserve fund is yet to be built up and even when one is created it may not be adequate to cover the possible losses. The question of loss will therefore be there. In most cases it would happen that the Government would have to go on finding fresh money and new capital. If there is loss it will mean deduction from the capital. I know of one State concern in one of the progressive States where the transport was run in this way that no repairs were undertaken for any of the buses that went out of order. They were merely sorted out, put away in the shed and new buses were bought so that no expenditure was made in regard to repairs and in regard to maintenance. While new buses were purchased and added on to capital, the Company made a profit all the time. This kind of financing is a very wise one in order to throw dust in the eyes of other people, but it is not in the interests of the tax-payer to do so. But I think it is best to show, when it is a Government concern, when Government undertakes to finance a public utility concern, the profit if any and a percentage of it ought to go to Government.

There is nothing to be ashamed about it, and if my hon. friend says that they are going to do something else in regard to some other concern of the Government, say railways, I would say that it would be wrong and there is no need to anticipate the policy that the Government might undertake in regard to some other concern and frame the provisions of the Delhi Transport Authority in such a manner that the Government will get no profit at all excepting interest while Government would ultimately shoulder all losses. I hope the Select Committee will make the necessary change in this particular regard and see that after a particular amount is put into the Reserve Fund, any profit left over will be paid over to the Central Government. But there is another way in which the concern can be financed. My point is that Government should completely divest itself of responsibility for the finances of such concerns excepting in so far as guaranteeing any finances obtained by this concern from the public. It would be wise, in my view, if in the present stage of monetary conditions in this country, the Government decentralises the financing of all subordinate authorities, allow them to float debentures and guarantee these debentures if there is to be any ultimate loss. But as it is I personally do not see why surplus profits over certain expenditure should not go to Government. I think it is altogether wrong to say that the Government should not profit by any undertaking that it has undertaken. In fact, I remember that in 1945 the then outgoing Finance Member made it a point that it might be necessary for the Central and Provincial Governments in this country to embark upon trading or manufacturing ventures in order to supplement their income. I point this out only to show that there is nothing to be ashamed of about it, and I do feel that the profit, if there is any, should go to the Central Government. I also find there is a large amount of room for a reduction in the fares, because fares at this rate may be all right in the present inflationary conditions, but I do not

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think the fares will be suitable for all time to come. That, I think, is a matter on which the Select Committee will have to bestow some attention.

My hon. friend, Mr. Sondhi, made a mention about income-tax. I agree with him. The position is that nothing is mentioned about taxes in this enactment. It is very necessary that we ought to say whether this authority will be subject to income-tax or it will not be subject to the payment of income-tax. The question is this: If it is specifically exempted, that is one thing; if not, you will have to say that it will be treated as a Corporation for purposes of assessment of Income-tax. Otherwise it is quite possible that, though it happens to be a branch of Government, it may be open to the other branches of Government to treat it as an individual and tax it accordingly, instead of giving it the benefit that it will get as a Corporation. So, unless you specifically state that it will not be taxed, it will be taxed. It has got to be specifically stated whether it will be taxed or not. I hope the Select Committee will look into this matter also.

With regard to the large number of clauses here, I think some of them are really unnecessary. It has been copied largely from the Electricity Bill. Preparation of schemes, development of schemes, I think, these are absolutely unnecessary in a Bill of this nature. The authority has got to have certain amount of powers unless it be that it has to go to Government at every stage. The preparation of schemes, etc., happens to be an integral part of one and the same action. If we had imported provisions of this nature in the Electricity Bill it was merely because there were a plurality of authorities and a plurality of interests to be covered. I do not see why in the case of an Authority like this which will be an integral whole, the provisions should be so elaborate as to put in merely procedural matters which are not necessary. Sir, I think there is scope for streamlining the Bill in various respects, but the two important matters that I would once again urge on the Select Committee and also urge on the hon. the Mover of the Bill are the constitution of this authority and its finances. Both should be carefully scrutinised and perhaps suitable amendments made. Sir, I support the motion.

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

Shri M. Tirumala Rao: Sir, I sympathise with my friend, Mr. Santhanam, because the impress of his knowledge is somewhat lacking in this Bill and I find that the three musketeers, yourself, Mr. Santhanam and Mr. T. T. Krishnamachari, who used to embellish all the legislation that was coming before the House, have had their attention drawn elsewhere. Mr. Santhanam has gone into the Treasury Benches, you yourself have walked into the Deputy-Speaker's post and Mr. Krishnamachari found meanwhile a vacant seat in the Drafting Committee and got it. Therefore I can understand why Mr. Santhanam could not devote as much time and as much attention to this Bill as is his habit, and we find so many criticisms coming against this Bill.

Sir, we have had experience of the G.N.I.T. which was one of the worst services in this country. It was an exploiting service, exploited mainly in the interests of a few capitalists, and was causing great inconvenience and chagrin to the general public. One of the worst transport services, viz., the G.N.I.T., has been put an end to, by the Government taking it over. Now, the D.T.S. has not proved an efficient substitute of this, and my hon. friend wants to organise a new organisation through this Bill, and I do not know what principles have influenced him. The British Transport Act must have had some influence on his mind. As regards the qualifications of the members which he wants to put on this Transport Authority, he has simply left that in the air. The British

Transport Act says:

"The Chairman and other members of the Board shall be persons who have had wide experience, and have shown capacity, in transport, industrial, commercial or financial matters or in the conduct of public affairs and, in the case of two members, shall be persons who have had not less than six years experience in local Government within the London Passenger Transport Area."

My hon. friend has excluded Members of Parliament. I do not hold any brief for Members of Parliament. He has not stipulated any qualifications for the members; he is going to nominate three officials who, as my hon. friend suggested, would be already over-burdened with heavy duties in the departments. We do not know whom the Chief Commissioner will nominate; whether he will be his favourite. If you want to have the Authority completely under your control as the Bill envisages and Government wants to interfere in the management and conduct of the affairs of this Authority at every turn, why don't you have nominated officials, three or four of them, and conduct the whole thing and make them responsible to you at every stage.

Shri Mahavir Tyagi (U. P.: General): Or to the Railway Board.

Shri M. Tirumala Rao: Of course it was in my mind.

The Honourable Shri N. Gopalaswami Ayyangar (Minister of Transport and Railways): A very wise suggestion.

Shri M. Tirumala Rao: It is a pity there is no statutory provision in the Bill stipulating certain qualifications for members. Let us not imagine that the present set of Ministers will always continue. We do not know what sort of Government will work this Act even in the immediate future, leaving aside the distant future.

With regard to this they have put very petty-fogging conditions, and the authority has got powers to spend not exceeding Rs. 10,000 and they can incur 4 P.M. up to that limit without anybody's interference but any amount beyond Rs. 10,000 the authority has to refer to the Minister and obtain his permission. It looks as if there is a perpetual necessity to catch the Minister and please the Minister in charge and I do not think that the framers of the Bill might have intended that. There are other powers which are very wide and my hon. friend has drawn attention to clauses 50, 51 and 52. (Interruption.) With regard to powers of entry into any premises, is it copied from the Income-Tax Act or from the Criminal Procedure Code? Why should this authority have any particular powers of entering any premises. There is another clause that apparently gives also protection for action taken under this Act to bring legal proceedings against any person in the employment of the authority or anything which is done in good faith. Good faith is a matter of opinion and people connected with the motor transport, particularly you know what sort of people come into the employment, in this sense and I do not merely say of the officials and how the atmosphere is somewhat autocratic; I do not call it exactly corrupt but it is high-handed rowdyism. You cannot clothe these people with this authority to enter premises and thereby you create new offences. If a man commits an offence, he should be handed over to the Police who can take charge of the crime and then there are criminal courts. Why do you want criminal jurisdiction in an Act like this? I think the Select Committee will do well to look into this and with regard to the purchase and settlement of the value of these concerns, you have got a very sorry example in buying the G.N.I.T. There are so many stories told that that man went away with a large sum of money without a proper return to the State by way of buses or useful buses and now you want to perpetuate the same system here; the authority has got the right to purchase, to enter into any premises, to decide the cost of any undertaking or any assets or any property that they want to acquire and if the party who is affected by it is aggrieved, then you want to propose an arbitration tribunal to which the matter should be referred. We are not specially putting any qualification for the arbitration tribunal. You could have copied the provisions of this Transport Act where certain judicial officers with greater

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experience are nominated by the Judges of the High Courts. They were created in the British Transport Act; you could have created such a tribunal and you have not also given the particular principles on which the compensation should be arrived at. If you lay down certain principles on which the compensation could be arrived at and if you bring into existence a tribunal that is practically judicial in its character, then there will not be any grouse from any quarter and there will not be any possibility for corruption in these matters. I am not very much satisfied with these provisions which have been incorporated in great detail and I do not know how far this will prove a success. You want to have a thing that should be controlled by the Ministry. If the Ministers want to hold the responsibility in their own hands, then organize it with a body of officials first, carry it on and bring it under criticism of this House. With these remarks, I support the motion.

Shri Ajit Prasad Jain (U.P.: General): Sir, It is curious that every Member who spoke has accorded a general approval to the principle of the Bill but when he came to details, there was a criticism on almost every point. This Bill proposes to set up an authority; its functions will be three-fold, first to run the Delhi Transport Service; secondly to expand the service and thirdly to acquire any of the existing concerns now operating—bus services. That is a very commendable object. It is a good thing to set up an autonomous body because experience not only in India but elsewhere has shown that concerns which will run on business basis—and of course this concern will run on business line—cannot be run by state departments efficiently and well. So far as the setting up of an independent authority is concerned, there cannot be any quarrel, but with the detailed provisions of this Bill, I am afraid there cannot be much agreement. The object of setting up an independent or autonomous body is that it may have flexibility; it may have elasticity; it may be in a position to meet situations as they arise.

Now, Sir, the powers of the authority are laid down in clause 20 of the Bill. A perusal of clause 20 will show that practically all the powers that have been given to the Transport Authority are hampered; they are overwhelmingly controlled by the Central Government. If they have to dispose of any vehicle or goods worth more than Rs. 25,000 that has to be done with the sanction of the department concerned. I am referring, Sir, to clause (i) of section 20 which says: "To dispose of without the previous sanction of the Central Government any assets the valuation of which is less than Rs. 25,000". Now what is Rs. 25,000? If they want to dispose of one of their buses or a part of the equipment or a few things of their workshop then they have to apply for the sanction of the department. What does the sanction mean? It takes time and it has got to go through all the departmental red-tapism. Mr. Tirumala Rao who just preceded me, referred to section 22 where it is laid down that any scheme which involves an expenditure of Rs. 10,000 will require the sanction of the Central Government.

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): May I point to the hon. Member that that provision is only with respect to the new schemes and not with respect to any ordinary expenditure of the authority.

Shri Ajit Prasad Jain: I am coming to that. I know that a new scheme will include the extension of an old scheme as well. Now, supposing the authority wants to start a new bus on a particular road that may come under the definition of the new scheme and for that the authority will have to obtain the sanction of the Central Government.

Another clause which is rather remarkable in its nature is sub-clause (n) of clause 20 which says that the authority shall be entitled "with the prior approval

of the Central Government, to do all other things which in the opinion of the Authority are necessary to facilitate the proper carrying on of the business of the Authority." It is couched in the widest possible language. Wherever the articles of a corporation or a company give such authority to the Board of Directors or to the executive body it is confined to incidental matters necessary for carrying on of the business but not to the major activities of the corporation or company. It is strange that for comparatively minor things sanction will have to be obtained from the Central Government. What is the use of setting up an autonomous body if its working is circumscribed in that manner? I hope that the Select Committee will pay due attention to that aspect of the question and try to liberalize the powers of the authority because that and that alone would lead to good and efficient working by the authority.

Again I do not know whether it is purposeful but over and over again things in this Bill have been left vague. For instance, three non-officials will be appointed on the Authority. As has been observed already it is nowhere laid down what will be the qualifications of the persons who will be nominated.

I would draw the attention of the House to section 18 which deals with the Advisory Council. It says:

"The Central Government shall constitute an Advisory Council to advise the Authority on such matters as may be prescribed."

Everything has been left indefinite in the hands of the executive government. What for do you want the sanction of the House. If all this is to be done by you, you could have done it under your executive powers. If the Hon'ble Minister wants our approval he should tell us something more definite as to what this Advisory Council is going to be, what are its powers, its constitution, what sort of persons are going to constitute it.

Section 47 relates to arbitral tribunal but nothing has been said about the qualifications of persons who would constitute it. It is vested with great authority. It will decide the question of compensation, a question about which definite safeguards have been provided in the new Constitution. I am not very sure whether this section as framed satisfies the conditions laid down in section 299 of the Government of India Act or the corresponding article 31 of the new Constitution. The clause says:

"Where no such agreement can be reached, the amount shall, subject to rules made under this Act, be determined by an arbitral tribunal consisting of one nominee of the Authority, one nominee of the person to be compensated and one nominee of the Central Government who shall be Chairman of the tribunal."

Is that the method of laying down compensation or prescribing the manner in which compensation shall be assessed? I submit it is not so. It should have been provided by law but it has been left to the rule-making power which will be exercised by the executive and I am very doubtful if this clause satisfies the legal conditions.

Another point is that members of the Central and Provincial legislatures have been disqualified from becoming members of the Authority. The Hon. Minister did not tell us any reason why it has been so laid down. May be that politicians have a certain pull and he might be afraid of wire-pulling. Is it not a fact that businessmen like Tata, Birla or Dalmia can be a member of the Authority and yet they have greater pull than any members of the legislature? I would like to know some cogent reasons why members of the legislature have been specifically excluded. I do not mean to say that any member of the legislature should be placed there as such but this disqualification is attached to a person merely because he happens to be a member of the legislature. I object to this.

[Shri Ajit Prasad Jain]

Much has been said about the drafting of the Bill. I might refer to clauses 6 and 8. Clause 6 deals with disqualifications for being chosen or being a member of the Authority. It says that a person who is a member of the central or provincial legislature, or who holds judicial capacity will neither be qualified to be chosen nor be entitled to continue as a member of the authority. Clause 8 refers to the removal of the Chairman and members from office. A lunatic, a person of unsound mind, one who is judged insolvent or convicted of moral turpitude will be removed from membership of the authority. But there is nothing to debar a lunatic, a person of unsound mind, or one judged insolvent or convicted of moral turpitude from being nominated on that Authority. You can nominate any one of them.

Shri T. T. Krishnamachari: They are purely relative terms.

Shri Ajit Prasad Jain: You can nominate an undischarged insolvent or a person who has committed an offence involving moral turpitude on the Authority but if a member becomes insolvent or is convicted of moral turpitude he will be removed. I have not been able to understand the logic of it.

An Honourable Member: Only a lunatic will appoint a lunatic.

Shri Ajit Prasad Jain: Yes, we have enough of lunatics.

Some hon. Members who have preceded me have pointed out a number of defects in this Bill. In particular I do not see why any officer or servant of the Authority should be given the authority to enter any place or premises. Everybody's house is a castle unto himself. Even when a police officer makes an entry into a house he asks the females observing purdah to have an opportunity to go into seclusion. Unfortunately clause 50 does not make any such provision. It gives absolute power to a servant of the Authority to enter any premises, any house, any place at any time to discharge his duties to the Authority.

Clause 52 gives complete exemption to the employees and officers of the Authority. Does it mean that every bus driver will be free to run over a pedestrian? Will he not be liable to criminal and civil action? In fact this section has also been couched in too broad a manner.

Lastly an hon. Member took objection to sub-clause 3 of clause 55 which gives power to the authority to make rules and prescribe that the breach of any such rule will be liable to punishment with imprisonment which may extend to three months or with fine which may extend to Rs. 500. That I think is extremely objectionable.

Mr. Deputy-Speaker: All these matters have already been referred to.

Shri Ajit Prasad Jain: This House is not prepared to delegate its law-making power to any other body. We strongly object to giving such powers to the Authority and I do hope that in the Select Committee this Bill.....

Shrimati G. Durgabai (Madras: General): Will the hon. Member note that protection is not given in every case but for an act done in good faith or purported to be done under this Act.

Shri Ajit Prasad Jain: If incidentally the lorry runs over a passer-by on the road that may not be in bad faith!

Pandit Thakur Das Bhargava (East Punjab: General): That protection is given by the Indian Penal Code also.

Shri Ajit Prasad Jain: I hope all the defects of the Bill will be removed in the Select Committee stage. With these words I finish.

Mr. Deputy-Speaker: May I say that this is a small Bill and so many points have been elucidated. I find the same points are referred to again and again. I would therefore suggest that if hon. Members have got any new points they may urge them.

Shri S. V. Krishnamoorthy Rao (Mysore State): Sir, I want first of all to point out that under item (f) of clause 8 of the Bill a member of the Authority ceases to be a member if he has been absent for more than six consecutive meetings of the Authority. I think this is too long a period. In all statutory authorities it is usually three consecutive meetings, whereas here a member can afford to be absent for six consecutive meetings and still be a member of the Authority. I suggest that this clause be suitably amended.

In clause 11 of the Bill the authority has got the power to associate with itself certain members. If this is intended to consult expert opinion they can consult the experts even without associating them as members of the Authority. These members are to have no power to vote, they have power only to discuss. If the idea, however, is really to have them as expert members the proper word would perhaps be to "co-opt". Then they would remain as full members and they can give the benefit of their experience and opinion to the Authority. I want the Select Committee to look into this question also.

There is a provision under clause 18 for an Advisory Council. But how it is to be formed, who is to form it and what are its exact powers have not been specified.

Mr. Deputy-Speaker: That will be done by the Rules.

Shri S. V. Krishnamoorthy Rao: It is stated here "as may be prescribed". But I would like the Act to be clear on this point.

Nationalisation should not be an end in itself. Unless it conduces to efficient and economic working, mere transfer from private ownership to state ownership will not help the community. In fact the community which it serves must feel that it is its concern. Now, this Authority mainly serves Delhi Province. So I would submit that specific provisions may be made by which Delhi Municipality—New Delhi Municipality and Delhi Municipality—as also the travelling public and the employees who actually work in the concern will find representation on the Advisory Council and their suggestions may be taken into consideration when any matter is decided by the Authority.

The only power that is given to the Advisory Council, as I find, is in regard to consultation on new schemes. I submit that the exact powers of the Advisory Council may be defined better by the Select Committee.

As regards the schemes themselves, clauses 22 and 23 refer to the preparation of the schemes. Under clause 22 the various items give the nature of the schemes, but the proviso to clause 23 says that no scheme estimated to result in a capital expenditure exceeding Rs. 10,000 may be sanctioned by the Authority without the approval of the Government. I wonder if any scheme can be put into execution within a cost of Rs. 10,000. I do not know what use there is by including a provision of this nature. Even to replace a bus today costs more than Rs. 10,000. Therefore, when a statutory authority like this is constituted I think either we must give them more powers so that they can boldly put through these schemes for the benefit of the public or not have a provision of this nature at all which, I think, is practically useless.

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[Shri S. V. Krishnamoorthy Rao]

Then there is no provision for labour welfare, bonus, Provident fund and such other things to the employees of the Authority.

As regards compensation clause 47(c) provides that an appeal shall lie to the District Judge against the decision of the tribunal. The point whether a decision of the District Judge will be final or whether there is a further appeal to the High Court should, I think, be made clear.

These are some of the suggestions I would like the Select Committee to take into consideration.

Shri O. V. Alagesan (Madras: General): At the outset I assure you that I shall not cover the ground already covered by other hon. Members. I shall also try to be very brief.

The Ministry deserves congratulation for having brought forward this Bill and for having set an example to other Provincial Governments who run such road transport undertakings. In running such services departmentally there are several handicaps; it is therefore good that it is entrusted to a separate Authority. The Hon. Minister in charge of the Bill also being the Minister of Railways has naturally patterned this on the lines of the railway administration. Perhaps it is well that it is so. It has been provided, on the model of the railway administration, that there should be an Advisory Council. But in view of clause 11 under which you can take associate members I do not think there is any necessity for a separate Advisory Council as it may not be conducive to smooth working. Once we have an Advisory Council, though of course it is well understood that its functions can only be in an advisory capacity, there will be complaints that their advice is not being taken. For a limited area and for a small concern I do not think there is any necessity for a separate Advisory Council as is provided under clause 18 as there is room for taking associate members and taking their advice.

It has been laid down in clause 29 that it shall be the general principle of the Authority that in carrying on its undertaking under this Act it shall act on business principles. It is good that it has been stated in such clear terms, because the main object in Government taking over such undertakings is to run them more efficiently and in a more satisfactory manner than private concerns can ever do.

After having laid down such a healthy principle an attempt is made under clauses 48 and 49 to run away from the responsibilities. Under clause 48 this Authority is exempted from the operation of Chapter IV of the Motor Vehicles Act more or less. I do not know why this Authority should be a law unto itself, why it should not be controlled by the Motor Vehicles Act under which other concerns are working. The fourth Chapter provides for fixing the number of passengers, the amount of luggage that is to be carried and several other things like speed limit, hours of work for workmen etc. Is it the intention that this Authority should escape from all these sections? Why should there be such a differential treatment to this authority and why should it escape its responsibility? There is no necessity for it and it should submit to the same rules and regulations and other Acts that are in force.

Under section 49 the Authority need not pay any taxation. The other day the hon. the mover of this Bill gave us certain figures and said that this concern has made a profit of about Rs. 10 lakhs. I don't know the number of vehicles, there may be 200 of them, and if they have to pay taxation at the rate prevalent in Madras—the Punjab rate may be different and a little less—a major portion of that Rs. 10 lakhs would have been swallowed for paying taxation. My point is that when the Authority runs this service the Government should not lose its

normal income which it would otherwise have got if it had been run by a private concern. There is absolutely no reason why the Authority should be exempt from paying any taxation. It should be subject to the same provisions of taxation etc.

Again, if we turn to section 53, a sweeping provision has been made that the "provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act". I don't know why such an exemption should be given for the entire Act. It may perhaps be proper for any one or two sections to have this protection but here the other Acts in entirety are completely prohibited from having any force. It is not right that this protection should relate to the entire Act. Supposing in the Motor Vehicles Act or any other regulation there is a provision as to speed limit; is it meant that this Act should supersede any such limit and should have its own separate rules and regulations regarding all these matters? I don't think that it is right.

The Bill fails to make one important provision. Under section 94 of the Motor Vehicles Act, the Provincial Government, the Central Government and any other local authority have been exempted from taking out a policy of insurance. The section relates to insurance for third party risks. This Authority cannot be classified as Central Government or Provincial Government and if no mention is made it will be liable to take out policies of third party insurance and that will be a huge waste. I don't mean that persons affected by accidents etc. should not have any compensation from this Authority. For that purpose the authority should constitute a separate fund and from that fund should pay such claims. An independent tribunal may also be provided for who may examine impartially and make these allotments. So, there should be a section to provide for exemption.

The Honourable Shri K. Santhanam: What about 49?

Shri O. V. Alagesan: No, I don't think 49 will cover it. A provision should be made specifically exempting this Authority from section 94 of the Motor Vehicles Act.

Again, coming to sections 6 and 17 which provide for disqualifications for members of the authority and for officers and servants of the authority, the healthy provision that we find in section 44 of the Motor Vehicles Act is not here. That provision is that anybody having financial interest in any other road transport undertaking cannot be a member of the various Authorities that it seeks to set up. It is necessary to have a similar provision in this Bill also in order to prevent such people from becoming either members or servants or officers of this authority.

Section 44 relates to supersession of the Authority. It is provided that the Government may supersede the authority on any complaint and ask them to show cause why they should not be superseded and after having got their explanation they can do one of these three things:

(a) extend the period of supersession,

(b) reconstitute the authority in the manner provided, or

(c) by notification in the official Gazette direct that the Authority shall be reconstituted by the persons who vacated their offices under clause (a) of sub-section (2) and shall recommence functioning as if it had not been superseded.

When the Government supersedes the authority after having asked them to show cause why they should not be superseded, the Government is expected to

[Shri O. V. Alagesan]

go into the pros and cons of the case and then take a decision after mature consideration. After having done that if they go back and say they will reconstitute the authority with the same members, that will mean as though Government owns its mistake in having superseded the authority in the first instance.

There are other questions also. As many hon. Members had occasion to point out, the drafting is defective and one thing should be said in that connection. Wherever provisions have been bodily taken from other Acts, they are all right. I don't say this in any spirit of criticism. It is good that we copy other provisions which have been passed by this House or any other House so that we may commit the least number of mistakes. There is nothing wrong in copying. After all, we don't claim any originality in drafting Bills. So, it is good that we copy provisions from other Acts. But wherever any attempt at originality has been made here, it has been a failure and the Bill requires a great deal of trimming. I hope the Select Committee will take into consideration this fact and when the Bill emerges from the Select Committee I hope it will emerge a trimmed and a neat Bill.

The Honourable Shri K. Santhanam: Mr. Deputy-Speaker, as usual the Bill has been subjected to a very critical examination by many Members. I am sure that the Select Committee will look into all the points mentioned and see that wherever they can be improved they are improved. I may also make one other general remark. Many Members have complained about the drafting of the Bill. I may confess that this Bill had to be prepared in a hurry so that it might be introduced in the last session and having introduced it we could not make any changes and therefore we have reserved our own remarks also for the Select Committee. But I am afraid some of the criticisms at least are not quite accurate. I would just run over the criticisms made by various speakers.

I am sorry that my hon. friend Prof. Shibban Lal Saksena is not here. He complained that we did not take inspiration from the British Transport Commission Act. As a matter of fact, some of the provisions have been adapted in the light of the provisions of this British Act. The composition of the Executive which he commended for our acceptance is almost exactly the composition of the authority which we have formulated in this Act.

My hon. friend Mr. Subramaniam complained that for an object of this nature the Bill is too long. I would point out to him the criticism on the other side made by my hon. friend Mr. Jain that in many matters we only indicate what action should be taken, leaving the actual material to be filled by rules and regulations. If we take the advice of Mr. Jain, the whole Bill would have to be doubled or trebled in size. I may also inform my hon. friend Mr. Subramaniam that owing to its extreme brevity, the Road Corporation Act which we brought and which the House passed, could not apply to the provinces and so at the last meeting of the Transport Advisory Council we had to adopt a more detailed Bill which is going to be introduced in the House and will be taken up for consideration in due course. In this matter, I think it is better to steer a middle way and not make the Bill too elaborate, at the same time taking care to see that all the important points are covered to a reasonable extent. That is the procedure that has been adopted in this Bill.

One point which was mentioned by Mr. Subramaniam and others is in regard to sub-clause (3) of Section 55 which provides that a regulation may contain punishments which may extend to three months or with fine which may extend to Rs. 500. I do appreciate the objection, but what is the alternative? We will have to put in a section in the Bill to make any breach of regulation punishable to this extent. In fact, this particular clause is meant to so regulate

punishment that for minor offences such heavy punishments need not be necessary. We cannot give any authority the power to make regulations and provide no sanction whatsoever. Those regulations will not be worth the paper on which they are written. Therefore, we have the Hobson's choice. Either we put in the punishment here—it must be the maximum punishment; or we leave it to the authority with the approval of the Central Government to prescribe punishments subject to the prescribed maximum. If the Select Committee thinks it preferable that the punishment should be incorporated, I shall have no objection, but I hope to convince it that it will be making a worse choice.

As usual, my friend Mr. T. T. Krishnamachari had his own method of criticism. I have nothing to say regarding the remarks he made about the value of the G.N.I.T. or of our wisdom in taking over the assets of the old company. That is the inherent difficulty of nationalisation by taking over old concerns. We have to take over the old concerns with all their assets and what is worse with all their liabilities, and in this case the liabilities, I admit, were at least as onerous as the assets, and much of the criticism and the public complaint is due to the fact that we had to take over these liabilities of the old G.N.I.T.

Many of my hon. friends have objected to the composition of the Authority. They wanted some qualification to be prescribed. I do not know if they would like us to put in a clause as in the British Transport Commission Act regarding the qualifications. This is what that Act says:

"The Commission shall consist of a chairman and not less than four nor more than eight other members, all of whom shall be appointed by the Minister from among persons appearing to him to be persons who have had wide experience and shown capacity in transport, industrial, commercial or financial matters, in administration, or in the organisation of workers, and of whom the Chairman and not less than four other members shall be required to render wholetime service to the commission."

To put qualifications in such wide terms is purposeless, as the Central Government is bound to appoint people with some qualifications or other. On the other hand, if we are to prescribe specific qualifications as experience in transport, business, etc. then I am afraid we may not be able to find such persons at all. This motor transport industry is still a sort of infant industry in this country and even for getting high level executives we are finding it very difficult. It is only after a great deal of difficulty and search, we were able to get a new General Manager for the Delhi Transport Service. We have not yet been able to get a proper Mechanical Engineer or other officers. Therefore, to put in specific qualifications will be to defeat the purpose. Moreover, it should be remembered that the function of the Authority is to exercise the powers which are now exercised by the Transport Ministry. Therefore, it is to take away the work of the Ministry we want this Transport Authority. We want it to be composed of able and intelligent people, composed partly of officers who will function as watch-dogs of the Central Government and partly of public men who will function as watch-dogs of public interest.

Shri R. K. Sidhva: Where are they? I mean the public men.

The Honourable Shri K. Santhanam: My hon. friend thinks that the only public men are within the precincts of this House.

Shri R. K. Sidhva: I have not said so. Actually, I have sent in an amendment that they should be members of municipalities and similar institutions. I asked where are they?

Sjt. Rohini Kumar Chaudhri (Assam: General): Is the Hon. Minister not aware that the Provincial Transport Authorities are presided over by Provincial Ministers of Transport?

The Honourable Shri K. Santhanam: Among the non-officials all non-officials excluding the Members of the Constituent Assembly are included and our choice is entirely free. I may explain why Members of the Assembly have been excluded. We are following the very worthy example of the British Transport Commission Act which says:

"A person shall be disqualified for being appointed a member of the Commission so long as he is a member of the Commons House of Parliament."

Shri R. K. Sidhva: If so, follow it in entirety. Why pick up one clause?

Shri Mahavir Tyagi: Is membership of the authority an office of profit? Is it a wholetime service?

The Honourable Shri K. Santhanam: Out of the 8 members 4 other members may not be wholetime members. In the Act constituting the Reserve Bank and other Acts which we have passed in this legislature, we have accepted the salutary principle that the Members of the House should not be members in such Authorities. It is for this simple political principle, that responsibility should be clear and distinct and the frontiers should not be blurred. We are the guardians of the people over all these institutions. If Members of the Assembly get entangled in these institutions, then the responsibility of the House becomes blurred and we shall not be able to fulfil our trusteeship for the country at large. That is the only reason why the members of this Parliament are excluded from such Authority, and it is not a matter of reflection on their capacity or any other way. Therefore, it is a salutary principle which I hope will be followed in every such independent autonomous Authority.

It is our intention to nominate one of the non-officials from Delhi Municipality. That is our intention, but we do not want to commit ourselves, because in that case if we get a much better choice we shall be precluded from taking him.

Sir, some remarks were made regarding the limitation of expenditure of the Transport Authority. While this Transport Authority will be autonomous, the capital is going to be given by the Central Government and in certain matters it is certainly necessary that the approval of the Central Government should be obtained. In this particular case the approval should be very easy, because the representatives of the Ministries of Finance and Transport will be there. It is only when any scheme is framed about which they feel grave doubts that the question of approval or non-approval would arise. Otherwise, normally speaking, if the official representatives of the Government of India approve of the schemes, then the approval of the Government of India will become more or less a formality.

Shri Ajit Prasad Jain: Does it mean that the official becomes the approving authority?

The Honourable Shri K. Santhanam: If the Transport Authority accepts a scheme by a majority of four to three and the representatives of the Ministries of Transport and Finance are among the dissentients, then it will be a matter which the Central Government will have to consider whether such a scheme will be in the interest of the tax-payer and will not involve the Government in a loss. That is a salutary safeguard which I thought the House itself will insist on, even if we had not put it in.

Sir, some other hon. Member objected to the limitation on the power of disposal of this authority. Ordinarily speaking this Authority's business is not to sell any kind of material. Its business is to buy buses and spare parts and use them for road service. If for any reason it wants to dispose of materials and makes some mistake or miscalculation, it is certainly good that the matter should be brought to the attention of the Central Government. That is why in the disposal of assets, for instance, movable or immovable property, the Central Government should have a voice. As I have already explained, in the

ordinary course there should be no difficulty. It is only when instances arise when the action of the authority is disputed by the representatives of the Government of India that the question of reconsideration will come in.

Some hon. Members objected that certain provisions are vague or undefined. I think it was Mr. Jain who pointed out that the provisions relating to the Advisory Councils are not sufficiently specific. We did not want to cumber the Bill with detailed provisions and it is essential that both the composition and the functions of the Advisory Council should be elastic. Therefore provision is made for the making of rules which can be changed in the light of experience. We do not want that every time the composition of the advisory council has to be changed or its functions have to be enlarged or curtailed an amending Bill should be introduced.

I am afraid my hon. Friend Mr. Jain was rather mistaken in his attempt to prove that clause 8 relating to disqualifications was not quite consistent with the spirit of the Bill. Here the Central Government is nominating the members and so initially at least they will be able to see that no one who is a lunatic or insolvent gets in.

My hon. Friend, Mr. Alagesan, said that people with interests should be excluded from membership of both the authority and service. I think this has been provided in clauses 6 and 17.

Shri O. V. Alagesan: I meant that a person with financial interest in any other road transport undertaking should not be included as a member.

The Honourable Shri K. Santhanam: I am prepared to look into that point Sir.

In the end, I may assure the House that all the other points made during the course of the debate will be duly examined.

Before I sit down I have to make a request. I understand that Shri Mohan Lal Gautam finds himself unable to serve on this Select Committee. I would request your permission to substitute Shri C. Subramaniam in place of Shri Gautam. I may assure the House that in the Select Committee every suggestion will be carefully examined and we shall be ready to accept as many amendments as may be necessary to make the Bill acceptable to the whole House. I move:

"That in the motion, for the name of Shri Mohan Lal Gautam, the name of Shri C. Subramaniam be substituted."

Mr. Deputy-Speaker: I will first put the substitution to the vote of the House. The question is:

"That in the motion, for the name of Shri Mohan Lal Gautam, the name of Shri C. Subramaniam be substituted."

The motion was adopted.

Mr. Deputy-Speaker: I will now put the motion to the House. The question is:

"That the 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, be referred to a Select Committee consisting of Shri Satis Chandra Samanta, Ch. Ranbir Singh, Shri Yudhishthir Misra, Dr. P. S. Deshmukh, Prof. Shibban Lal Saksena, Shri R. K. Sidhva, Shri Ram Chandra Upadhyaya, Shri Krishna Chandra Sharma, Mr. T. J. M. Wilton, Sardar Hukam Singh, Shri C. Subramaniam, Sardar Suchet Singh, Shri Deshbandha Gupta and the Mover, with instructions to report on or before the 12th December 1949, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Friday, the 2nd December 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES
(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Friday, 2nd December, 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)

11-50 A.M.

PAPERS LAID ON THE TABLE

NOTIFICATIONS UNDER CENTRAL EXCISES AND SALT ACT, 1944

The Honourable Dr. John Matthai (Minister of Finance): I beg to lay on the table a copy of each of the following notifications in accordance with Section 38 of the Central Excises and Salt Act, 1944:

- (1) Notification No. C. No. 1/Spl./M/Exc./48, dated the 1st March, 1949,
- (2) Central Excises Notification No. 5, dated the 12th March, 1949,
- (3) Central Excises Notification No. 9, dated the 5th April, 1949,
- (4) Central Excises Notification No. 13, dated the 9th April, 1949,
- (5) Central Excises Notification No. 14, dated the 30th April, 1949,
- (6) Central Excises Notification No. 15, dated the 7th May, 1949,
- (7) Central Excises Notification No. 16, dated the 7th May, 1949,
- (8) Central Excises Notification No. 17, dated the 14th May, 1949,
- (9) Central Excises Notification No. 21, dated the 4th June, 1949,
- (10) Central Excises Notification No. 23, dated the 2nd July, 1949,
- (11) Central Excises Notification No. 26, dated the 13th August, 1949,
- (12) Central Excises Notification No. 28, dated the 1st September, 1949,
- (13) Central Excises Notification No. 29, dated the 10th September, 1949,
- (14) Central Excises Notification No. 30, dated the 1st October, 1949,
- (15) Central Excises Notification No. 32, dated the 29th October, 1949.

[Copy placed in the Library. See Nos. P-21/49 to P-35/49.]

TAXATION LAWS (EXTENSION TO MERGED STATES AND AMENDMENT) BILL

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

"That leave be granted to introduce a Bill to extend certain laws relating to taxation on income to certain areas administered as parts of Governors' Provinces or as Chief Commissioners' Provinces and further to amend certain laws relating to taxation on income."

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to extend certain laws relating to taxation on income to certain areas administered as parts of Governors' Provinces or as Chief Commissioners' Provinces and further to amend certain laws relating to taxation on income."

The motion was adopted.

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

EXPLOSIVES (TEMPORARY PROVISIONS) BILL

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

"That leave be granted to introduce a Bill to provide for the exemption for a limited period of operations affecting ammunition, explosives or inflammable substances from certain restrictions and for the regulation of those operations."

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the exemption for a limited period of operations affecting ammunition, explosives or inflammable substances from certain restrictions and for the regulation of those operations."

The motion was adopted.

The Honourable Shri Satyanarayan Sinha: Sir, I introduce the Bill.

INDUSTRIAL DISPUTES (BANKING AND INSURANCE COMPANIES) BILL

The Honourable Shri Jagjivan Ram (Minister of Labour): Sir, I move:

"That leave be granted to introduce a Bill to provide for the adjudication of industrial disputes concerning certain banking and insurance companies."

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the adjudication of industrial disputes concerning certain banking and insurance companies."

The motion was adopted.

The Honourable Shri Jagjivan Ram: Sir, I introduce the Bill.

TRANSFER OF DETAINED PERSONS BILL

The Honourable Sardar Vallabhbhai Patel (Minister of Home Affairs and the States): Sir, I move:

"That the Bill to provide for the removal from one unit to another unit of persons subjected to preventive detention for reasons connected with the maintenance of public order, be taken into consideration."

(182)

TRANSFER OF DETAINED PERSONS BILL

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The subject matter of the Bill is very simple. The Prisoners' Act provides for the transfer of prisoners from one province to another, but there is no provision regarding a similar transfer of persons subjected to preventive detention. Having regard to the scheme of the Prisoners' Act, a mere amendment of that Act to provide for such transfer is not appropriate. The absence of this power has been a source of considerable embarrassment to the Government and of inconvenience to the detenus who although detained in one province belong really to another. Therefore, it has been found necessary to have statutory provision for transfer of persons under detention for security or other purposes. During the last several months, we had had requests from various kinds of detenus for transfer from the province where they were detained to the province to which they really belonged.

But we could not give them any facilities because we have had no such power, and, therefore, it has been found necessary to seek your assistance for making such a provision in the Statute.

Now to meet this emergency we had promulgated an ordinance on the 19th July 1949 which will expire in January 1950. The Central List of the present Government of India Act as well as the New Constitution contains an item relating to the persons subjected to preventive detention for reasons of state. So, the necessity of such a provision is of permanent nature and it is essential to provide for such transfers in the Statute. The Bill before the House seeks for such a provision. It has been accepted by the Standing Committee of the Legislature for the Home Ministry before which it was placed.

Mr. Speaker: Motion moved:

"That the Bill to provide for the removal from one unit to another unit of persons subjected to preventive detention for reasons connected with the maintenance of public order, be taken into consideration."

Shri H. V. Kamath (C.P. and Berar: General): I wish to obtain, Sir, some information on one or two points that arise out of this Bill. This Bill provides for the removal from one unit to another of persons subjected to preventive detention. I do not know whether there is on the Statute Book any Act which empowers the Government of India to remove or transfer from one unit to any of the Centrally Administered Areas such persons subjected to preventive detention.

I would request the hon. Home Minister to enlighten the House on this point: whether Government has powers already for removal of detenus from one unit, that is one province, or State to any of the Centrally Administered Areas, and if that be not so, whether Government propose to assume such powers, of course not under this Bill, but otherwise in the near future. I fear that this Bill would remain incomplete and incomprehensive, unless provision is made by legislation to provide for the removal of detenus not merely from one unit to another, but also from one unit to any of the Centrally Administered Areas.

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, this Bill is only intended to give effect by way of procedure to the amendment that we made recently in the Constituent Assembly to the Concurrent List of the Adapted Government of India Act. Item 3 of the List relates to removal of prisoners and accused persons from one unit to another, but does not relate to persons who are detained under sub-section 4 of the Second Amendment Act of 1949. This related to item No. 3 of the Concurrent List and reads:

"Removal from one unit to another unit of prisoners, accused persons and persons subjected to preventive detention for reasons connected with the maintenance of public order."

[Shri M. Ananthasayanam Ayyangar]

It is, therefore, under the Government of India Act, as amended by the Second Amendment Act of 1949 that this item of removal of persons detained from one unit to another has been put in the Concurrent List. This Bill lays down the procedure that is to be followed in removing such persons from one province to another.

If the Government of one province intends to send such prisoners for reasons of security to another province the consent of the other province is necessary—that is all that is laid down in this Bill. I think the word “province” though it has not been defined would also mean an “acceding State” or “union of States” and also a Centrally Administered Area. I would request the hon. Minister to consider whether it would not be more advisable to use the word “Unit” because that is the term used in the Government of India Act, as adapted. That is also the term used in the Amendment Act. Moreover that word would cover the Centrally Administered Areas as well as the States. Otherwise, there is no principle involved in this Bill. It is only intended to carry out the amendment that has been made.

I would, however, suggest for the consideration of the hon. Minister one small amendment—even at this stage—if it meets with his approval I will formally move it. Under sub-clause (2) removal of prisoners from one province to another alone is contemplated. The Government of a unit which detains a person if it wants to transfer him, in the interest of public safety, need only take the consent of the province to which he is being transferred. In some cases, I feel that it may be desirable that the approval of the Centre may also be taken. In 1942 some of us from Madras were transferred to a jail in the Central Provinces, the previous history of which was that in the preceding summer about one hundred prisoners died of meningitis. That was the jail to which we were all transferred. In spite of repeated complaints, we were also just asked to live in a shed something like the goods-shed of a wayside third class railway station. It was a tin shed and the roof was very low. The degree of heat in Amraoti—from which my hon. friend Dr. Deshmukh comes—is 122 degrees in summer. Our repeated requests that we should be transferred to a better place were not heeded to. Our transfer was at the direction of the Central Government and not of the Provincial Government. Anyhow I consider it desirable that there must be one more authority who may come to the rescue of these people, instead of leaving them entirely to the individual discretion of the province which wants to send these people away.

I would, therefore, request the hon. Home Minister to include a provision that the approval of the Central Government should also be taken for any such transfer.

The Honourable Sardar Vallabhbhai Patel: So far as Mr. Kamath's question is concerned, I understand the word ‘unit’ or ‘province’ includes Chief Commissioners' Provinces also. Therefore, no difficulty arises.

So far as Mr. Ayyangar's suggestion is concerned, I have no objection to add the words, “with the consent of the Central Government”. Probably, in all cases transfers will be with the consent of the Central Government. It may involve a little delay; but it is better. I have no objection to accept this amendment for the addition of the words ‘with the consent of the Central Government’. Although I do not know what the past Government did during the period of war about which my hon. friend made a reference, they were under the Defence of India Rules transferred from one place to another and from one province to another as they liked. No such experience he will have or any of us will have. But, still, it is better if the Centre's control is there. Therefore, I have no objection to accept that.

About the other suggestion, I have not been able to follow what is exactly meant. But, if the word ‘unit’ is to be substituted for ‘province’, I have no objection, because provinces will be considered as units hereafter. I would accept that suggestion.

Shri H. V. Kamath: Will you, Sir, permit me to invite the attention of the hon. Home Minister to the Statement of Objects and Reasons which refers to the ordinance promulgated by Government in July last and which is sought to be replaced by the present Act? That ordinance refers to provinces or States. The unit, therefore, does not refer to Centrally Administered Areas. Unless that doubt is cleared, it will remain vague.

The Honourable Sardar Vallabhbhai Patel: ‘Unit’ will include Centrally Administered Areas.

Mr. Speaker: The word ‘unit’ will include Centrally Administered Areas. This position does not require any examination again. This means that no further amendments will have to be made.

The question is:

“That the Bill to provide for the removal from one unit to another unit of persons subjected to preventive detention for reasons connected with the maintenance of public order, be taken into consideration.”

The motion was adopted.

Mr. Speaker: We shall now proceed clause by clause. The point is, there are certain amendments already tabled to clauses 1 and 2. So, I am taking clause 2.

Mr. Naziruddin Ahmad (West Bengal; Muslim): My amendment is of a very formal nature. If it is acceptable, I am moving it; otherwise, not.

Mr. Speaker: The position is now changed. Instead of the word ‘Province’ I understand the word ‘unit’ has to be substituted.

The Honourable Sardar Vallabhbhai Patel: Even under the General Clauses Act, a Province shall mean a Governor's province, a Lieutenant Governor's province or a Chief Commissioner's province.

Mr. Speaker: The position is clear. I am always a bit nervous about last minute changes which may appear formal, but may still create some difficulty.

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): The word ‘unit’ has not been defined anywhere. The word ‘Province’, as has been defined, has been made to include the Acceding States. Therefore, there is no change needed in the Draft as it is.

Shri M. Ananthasayanam Ayyangar: I am satisfied, Sir.

Mr. Speaker: Let it remain as it is. Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad: This is only a drafting amendment. It is left to the discretion of the hon. Minister. If it is acceptable, I shall move; otherwise, it is not necessary.

The Honourable Sardar Vallabhbhai Patel: I think the draft as it is, is quite good. I do not accept the amendment.

Pandit Thakur Das Bhargava (East Punjab; General): With your permission Sir, I would like to be allowed to move amendments relating to sub-clause (1) at one time because they are related to each other. I move:

(i) “That in sub-clause (1) of clause 2 of the Bill, after the word ‘Province’ occurring in line six, the words ‘and the conditions of his detention’ be inserted”,

[Pandit Thakur Das Bhargava]

(ii) "That in sub-clause (1) of clause 2 of the Bill, after the word 'detained' occurring in line seven, the words 'in such place of detention' be inserted", and

(iii) "That in sub-clause (1) of clause 2 of the Bill, the words 'in accordance with the provisions of the order' occurring at the end be omitted".

This clause 2 speaks of two Governments: one Government which makes the order and the other Government to whose jurisdiction the prisoner is to be removed. In line 7, you will be pleased to see the words are: "provide by order for the removal of such person to any place of detention in that other Province; and the person so removed shall be detained in that other province". That is, the consent of the Government in whose jurisdiction the prisoner is to be transferred has to be taken in regard to place of detention. Further on, we read: "and the person so removed shall be detained in that other province in accordance with the provisions of the order." I understand that so far as the conditions of detention are concerned, according to clause 2, no consent of the Government in whose jurisdiction the prisoner is to be removed, is to be taken. I would like to know if the other Government in whose jurisdiction the prisoner is to be transferred has to give its consent to the conditions of detention also. Because, the conditions of detention are different in different provinces. The Jail Rules are very different. It may happen that as regards the visit of the relations of the prisoner, and in regard to other amenities, the rules in the other province are not the same. Therefore, I would rather like to know if it is the intention of the Bill that only consent has to be given in regard to the place of detention. Then, an amendment may be made in line 8, that "the person so removed shall be detained in such place of detention." If it is the intention of this Bill that the conditions of detention are also to be determined by the Government which orders the preventive detention with the consent of the other Government then, these words "in accordance with the provisions of the order" should be replaced by the words 'conditions of detention' in line 6. If both the things are to be regulated by the Government which orders detention, after the word "Province" in line 6, these words should be added, "and the conditions of his detention". If the intention is that not only the place of detention, but the conditions of detention also are to be regulated by the Government in whose jurisdiction the prisoner is being transferred, then, this should be made clear. In my humble opinion, this is not clear if both the things are to be regulated by the Government which sends the prisoner or by the Government in whose jurisdiction the prisoner is to be placed. Therefore, if my contention finds favour with the mover of this Bill, I would respectfully submit that the point may be considered.

Mr. Speaker: Shall I place the amendments before the House? Is the amendment acceptable?

The Honourable Sardar Vallabhbhai Patel: No; I do not think it is necessary at all; nor does it read well. The transfer is of the person detained; the conditions of detention cannot be transferred. If the terms or conditions differ from one province to another, when a person who is detained is transferred to another province, it will be the province or the Centre which will settle the terms and conditions of detention. It is not necessary to have any provision. It is not necessary to place the amendments.

Mr. Speaker: Mr. Ayyangar may move the other amendment. He has just given notice of the amendment. As it has been accepted by the hon. Minister, I take it that it is an agreed amendment and I do not insist on any further formal notice.

Shri M. Ananthasayanam Ayyangar: Sir, with your permission, I move:

"That in sub-clause (1) of clause 2 of the Bill, after the word 'Province' occurring in line five, the words 'and the approval of the Central Government' be inserted."

Then, the clause will read as follows:

"the Government of that Province may, with the consent of the Government of any other Province and the approval of the Central Government, provide by order for the removal of such person to any place....."

I have already submitted the reasons for including this.

Shri Jaspat Roy Kapoor (U.P.: General): I have just one word to say in connection with the amendment moved by my hon. friend Mr. Ayyangar. I am entirely in sympathy and in full agreement with the necessity for making some amendment in this clause 2 to meet the view-point of Shri Ayyangar, but I think the object he has in view would be better served if in place of his amendment we have an amendment to this effect:

"That to sub-clause (1) of clause 2 of the Bill, the following proviso be added:

"Provided that the Central Government on representation being made by the detenu reverse the order for removal!"

I think as the Deputy Prime Minister has rightly pointed out while replying to the suggestion made by Mr. Ayyangar in the first instance, if it is made obligatory to secure the previous consent of the Central Government, delay might occur and in certain cases such delay may be very undesirable and secondly, also the person who is proposed to be transferred will have absolutely no opportunity of making representation to the Central Government against the proposal of a Provincial Government for his transfer. According to Mr. Ayyangar's amendment all this procedure would be carried on, I suppose, behind the back of the detenu whereas if my suggestion is accepted, the detenu who is to be affected will have an opportunity of placing his case before the Central Government and the Central Government, after looking into the representation of the detenu will be in possession of the full facts of the case and will then be in a better position to decide as to whether the order of transfer should be confirmed or reversed. For these reasons, I would submit that the amendment which I have submitted may be accepted rather than the amendment suggested by Mr. Ayyangar.

Mr. Speaker: What is the position? There is an alternative suggestion made.

The Honourable Sardar Vallabhbhai Patel: I would prefer the first suggestion—the amendment moved by Mr. Ayyangar and not accept the other one.

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

Shri Jaspat Roy Kapoor: Then I do not press it.

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 2 of the Bill, after the word 'Province' occurring in line five, the words 'and the approval of the Central Government' be inserted."

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.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sardar Vallabhbhai Patel: Sir, I move:

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

Mr. Speaker: The question is:

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

The motion was adopted.

INDIAN ARMS (AMENDMENT) BILL

The Honourable Sardar Vallabhbhai Patel (Minister of Home Affairs and the States): I beg to move:

"That the Bill further to amend the Indian Arms Act, 1878, be taken into consideration."

As the Statement of Objects and Reasons explains, this Bill has been necessitated because the existing Act does not cover the export or import of arms by air. This lacuna in the Act has the effect of excluding from the purview of the Indian Arms Act unauthorised import or export of arms by air, although, under the Indian Aircraft Rules, a person who engages in such import or export can be prosecuted and punished. In the first place, the Indian Aircraft Rules are differently designed. They are intended to cover the safety of the aircraft in flight as well as at the aerodrome. We are, however, concerned from a broader aspect, viz., the security of the State itself and from that point of view a check on illicit traffic in arms is essential. Also, the punishment provided in the Indian Aircraft Rules is not adequate. It is obviously necessary that unauthorised import or export of arms, etc., by air should be dealt with as severely as similar import or export by land or sea. For this purpose, therefore, I feel it necessary that the Indian Arms Act be amended.

Mr. Speaker: The question is:

"That the Bill further to amend the Indian Arms Act, 1878, be taken into consideration."

The motion was adopted.

Mr. Speaker: I am taking all the clauses together as there are no amendments.

The motion is:

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

The motion was adopted.

Clauses 1, 2, 3 and 4 were added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sardar Vallabhbhai Patel: Sir, I move:

"That the Bill be passed."

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I did not want to participate in the discussion on this Bill as this is a very simple one. This is intended to cover cases of export or import of arms by air. Even if a person is allowed to carry arms by sea or train, if he misbehaves with those arms, the fellow passengers can stop and prevent him from misbehaving. But if a man is allowed to carry arms when travelling by air, there is nothing to prevent him misbehaving with them in mid-air. I would therefore request the hon. Minister to do something to see that passengers by air are not exposed to this danger.

The Honourable Sardar Vallabhbhai Patel: What is the point raised?

Mr. Speaker: The point raised is this that, if people are permitted to carry arms in aircraft, there is always the danger of those arms being misused by somebody sometimes, and just as it is possible to prevent any misuse on land or on sea, it will not be so in mid-air, to prevent that misuse. He does not know whether this aspect is covered by this Bill. If not, his request is that while framing rules, care should be taken to see that passengers travelling by air are free from possible danger of anybody carrying arms, misusing the same.

The Honourable Sardar Vallabhbhai Patel: Yes. I shall look into that question.

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

ESSENTIAL SUPPLIES (TEMPORARY POWERS) SECOND AMENDMENT BILL

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

"That the Bill further to amend the Essential Supplies (Temporary Powers) Act, 1946, be taken into consideration."

Sir, this Bill seeks to validate the ordinance which was passed a few months ago. The House will remember that the Essential Supplies Act of 1946 is now functioning by virtue of a special provision in the India Act of 1946 which gave the Central Legislature powers to make laws with respect of trade and commerce in, and the production, supply and distribution of certain specified commodities, including cotton textiles. The question arose whether raw cotton was included in the definition of woollen and cotton textiles. The opinion of the Law Ministry was that it did not include raw cotton, which virtually meant that cotton had to be controlled by the Provinces. It became a commodity which was not capable of being controlled by the Centre. This matter had been debated on the floor of the House, and as a result of the opinion then obtained, the Constituent Assembly was moved, and the India Act has been suitably amended. It is now proposed to include raw cotton, including ginned cotton and cotton seed, as one of the commodities which may be controlled by the Central Government. That is one change.

The second is with regard to the definition of coal. Now, in accordance with a decision recently given by a Bombay court, coke may not be included within the term "coal". We have, therefore, been advised that it will be better to define coal as including coke and other derivatives of coal. Now, this definition has to be given retrospective effect, because already orders which were passed by the Central Government under the Essential Supplies Act included control over coke. The India Act which has been amended has already laid down that this definition will be given retrospective effect. These are the two short changes which are now sought to be made in the Essential Supplies Act, 1946, in accordance with the powers conferred upon this Legislature by the amendment made in the India Act, 1946.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Essential Supplies (Temporary Powers) Act, 1946, be taken into consideration."

Shri Mahavir Tyagi (U.P.: General): May I put a question? Does control by Government really mean control at the stage when the cotton comes to the market or when it is on the field, and does it also mean procurement of the cotton?

The Honourable Dr. Syama Prasad Mookerjee: By this Bill, Government propose to control both *kapas* and also ginned cotton, but whether Government will really control *kapas* is a different matter. We have decided not to control *kapas* for the time being. What the Bill proposes is to give power to the Central Government to control it, if necessary. Whether this control will be imposed in respect of every commodity is a matter which will depend on various factors.

Shri Mahavir Tyagi: Will it entail procurement of cotton, just as in the case of wheat procurement is also done?

The Honourable Dr. Syama Prasad Mookerjee: It will mean control over *kapas* by Government, if it decides to have such control.

Dr. P. S. Deshmukh (C.P. and Berar: General): The Bill that has been tabled by the hon. Minister is a thoroughly non-controversial one and is one which need not be discussed at very great length. But, Sir, so far as these powers of control and fixation of prices and other things are concerned, I must place before the House the grievances of the growers of cotton. Very often, in the control of these commodities and the fixation of prices, our experience is that the prices given or the controls enforced come at the absolutely wrong psychological moment so that whenever the grower has the commodity with him, the price is generally showing a tendency to fall, and just at the stage at which it leaves his hands and goes into the hands of the merchant the prices become abnormally high. Now, so far as raw cotton and ginned cotton are concerned, everybody knows that we are in great short supply on account of a very bad crop in Central India which produces nearly 24 per cent. of our total cotton produced in India at the present time—the crop was badly spoilt by excessive rains—and it has now come down to 3 annas. But we have raised a very big industry which is one of our very important industries in the country and which depends on the cotton supplies for its progress and prosperity. And under these circumstances, the prices are bound to be very high because there is bound to be competition between the various mills to get hold of the quantity that is available, the very limited quantity. What generally happens is that we fix the ceiling and floor prices, and our experience is that these prices are not really respected by the merchant class. Just as we have fixed the jute prices and they were not respected. Recently at Calcutta we found that in spite of the fact that the Government had fixed a certain price, those persons who had licenses from Government to export a certain quantity of jute and jute goods, they were not able to get an ounce of jute or jute goods at that particular rate. In fact, taking advantage of the presence of the State Trading Committee at Calcutta, certain parties placed before us their complaints. Similar was the position of cotton. Last year that was our experience, the year before that also, when merchants used to buy at a premium of anything between Rs. 50 to Rs. 150 over the highest prices laid down by government. Evidently merchants will not bargain for a loss. They know that there will be demand. The merchant knows that the textile mills are bound to pay higher rates. The case of sugar has become notorious. Government brings out a statement or communique stating that certain prices are fixed, but nobody in India can get any sugar for that price. Therefore, I say the fixing of prices brings about certain evils which have to be eliminated as much as possible. I am prepared to admit that the remedy is not in our hands. But it is the duty and responsibility of government to see that in enforcing the prices or in settling the prices the primary grower

does not suffer at the hands of those who live by exploiting the primary grower.

In lending my support to this Bill, I would only bring to the notice of the hon. Members that the prices fixed by the hon. Minister for raw cotton even to-day are not adequate. We are actually paying nearly about two and a half times as much as for cotton imported from distant countries like Egypt, South Africa and elsewhere. Even so it has been demonstrated from facts and figures taken from government records, by the Indian Central Cotton Committee, that the prices given to the Indian agriculturist are not economic enough. It has ceased to be economic for the cultivators to grow it in the area which produces the largest amount of cotton. Under the circumstances, whenever my hon. friend is called upon to deal with this commodity I hope he will take all these facts into consideration and do his best to see that the cotton grower does not suffer. If the cotton grower suffers he will have no inclination to cultivate cotton and the textile mills will suffer. We will probably have to pay far higher prices for cotton imported from abroad. There will be labour troubles and there will be no end of difficulties arising in those circumstances. From that point of view I would like to press on the hon. Minister's attention the woes of the cotton grower and I hope he will kindly modify the policy of control and fixation of prices in such a way that the largest benefit goes to the grower so that the increased prosperity will be available both to the textile manufacturers and textile labourers.

चौधरी रणवीरसिंह: सभापति महोदय, यह कानून का मसौदा कोई बहुत ज्यादा मतभेद का विषय नहीं है और इसका समर्थन करते हुए डाक्टर पंजाबराव देशमुख जी ने जितनी बातें कही हैं उनका भी मैं समर्थन करता हूँ। हम अब की दफा जब आल इण्डिया सेंट्रल काटन कमेटी (All India Central Cotton Committee) की मीटिंग (meeting) में शामिल हुए तो वहाँ पर एक सी० पी० (C. P.) के काटन ग्रोवर (cotton grower) भी उसके मेम्बर (member) थे। उन्होंने बड़ी होशियारी से और गवर्नमेंट (Government) के स्टैटिस्टिक्स (statistics) की मदद से अपना केस (case) पेश किया कि काटन की कीमत जो किसान को दी जाती है वह किसी तरह उसके लिये इकानामिकल (economic) नहीं है। हम तो वहाँ द्रष्टा की हैसियत से थे और वह वहाँ उसके बाकायदा मेम्बर थे। उन्होंने इस बात पर भी कि जोर दिया था कि उसकी कीमत बढ़नी चाहिये और वह इस लिये भी कि चूँकि हमारे मन्त्री महोदय ने थोड़े ही दिन हुए उस वक्त काटन की स्कैयरसिटी (scarcity) बतायी थी। और यह झूट भी नहीं है कि हम साठ सत्तर करोड़ की काटन दूसरे देशों से इम्पोर्ट (import) करते हैं। तो अगर हम चाहते हैं कि काटन के मामले में सैल्फ सफिशियंट (self sufficient) तो कंट्रोल (control) के माने यही नहीं होने चाहियें कि काश्तकार की 'कमर को तोड़ा जाय, बल्कि कंट्रोल तो दर असल अगर होना चाहिये तो काश्तकार व लाभ के लिये ही होना चाहिये। तो मैं यह समझता हूँ और उम्मीद करता हूँ कि काटन की कीमत जो थोड़ी है इसको बढ़ाया जायगा। बदकिस्मती है कि केन्द्रीय कपास सभा के अन्दर एक दो के सिवा कीमत को बढ़ाने के समर्थन के लिये

१ रणवीर सिंह]

कोई नहीं मिला क्योंकि वहाँ पर जो आदमी थे वे सब मिल्स (mills) के नुमाइन्दे थे। उनकी सिर्फ एक ही इच्छा थी कि उनको काटन ज़रूर मिले और जो कीमत मुक़रर की गयी है उसके ऊपर ही मुहय्या की जाय।

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

इसके अलावा मैं आपके जरिये इस मिलमिले में मंत्री महोदय से कुछ अर्ज करना चाहता हूँ। वह यह है कि अभी उन्होंने इस मसविदे के अन्दर काटन सीड (cotton seed) का जिक्र किया है। जहाँ तक काटन सीड का ताल्लुक है, मैं आपको यह बतलाना चाहता हूँ कि एक तरफ काटन सीड के ग्रोअर (grower) को कितनी कीमत मिलती है और दूसरी तरफ जो काटन सीड का कन्स्यूमर (consumer) है उसको उसके लिये कितनी कीमत देनी पड़ती है। सी० पी० के अन्दर विनौले की कीमत मुश्किल से दस रुपया मन है, लेकिन पंजाब के अन्दर उसी विनौले की जो काश्तकार अपनी भैंस को खिचाने के लिये लेता है, सोलह रुपया मन कीमत देनी पड़ती है। आप जरा अन्दाजा कीजिये कि ६ रुपये का फर्क सिर्फ उसके लाने और बेचने में कर दिया गया है। अगर यह कण्ट्रोल सही मानों में आजाद देश का कण्ट्रोल बनना चाहता है और अगर सरकार लोगों की नुमाइन्दा सरकार सही तौर पर बनना चाहती है, तो उसे इस किस्म की कोजिर्ग करनी चाहिये कि मिडिलमैन (middle-man) का मुनाफा कम कराये और इसके लिये मैं मंत्री महोदय से प्रार्थना करता हूँ।

हम काटन मार्केटिंग कमेटी (Cotton Marketing Committee) के मिलमिले में बम्बई गये थे। वहाँ एक दोस्त हमारे सामने आये जो बम्बई में एक बहुत भारी कोऑपरेटिव सोसाइटी (co-operative society) को चलाते थे। उन्होंने अपनी मुश्किलों को बताया कि ईस्ट इण्डिया काटन एसोसियेशन (East India Cotton Association) एक जमात है जो काटन के मार्केट (market) को कण्ट्रोल करती है। वहाँ पर काटन ग्रोअर्स कोऑपरेटिव सोसाइटी (Cotton Growers' Co-operative Society) को तरफ से अगर कोई अपनी काटन सीधी मिल को देना चाहता है तो वह उनसे लेने में झिझकते हैं। बल्कि उनके मुताबिक में जो मिडिलमैन अपनी काटन उनको देते हैं उसको वह लेते हैं। सही बात तो असल यह है कि ईस्ट इण्डिया काटन एसोसियेशन बजात खुद एक मिडिलमैन की जमात है। तो मैं मंत्री महोदय से यह चाहता हूँ कि वह कण्ट्रोल के तहत कोई ऐसी बात लायें जिससे काटन ग्रोअर्स को भी लाभ हो।

मैं यह बात कहने हुए इस कानून के मसविदे का समर्थन करता हूँ।

(English translation of the above speech)

Ch. Ranbir Singh (East Punjab: General): Sir, this Bill is not the subject of any great controversy and I endorse whatever has been said by Dr. Punjab Rao Deshmukhji in supporting it. When I attended the meeting of the All India Central Cotton Committee this time there happened to be among the members a cotton grower from the C.P. Very cleverly and with the aid of Government statistics he put forth his case that the price of cotton as it was paid to the cultivator was in no way economical for him. I was present there simply in the position of a spectator whereas he was a regular member. He also urged that the price should be raised, more so since our Minister had, then, quite recently, stated that there was a scarcity of cotton. And, this is not wrong either, inasmuch as we import cotton worth sixty or seventy crores from other countries. If then we desire to attain self-sufficiency in the matter of cotton we should not take 'control' to mean simply that we break the back of the cultivator. On the other hand, if any control is to be there it should be in the interests of the cultivator. Hence I think and feel that the present price of cotton should be raised. Unfortunately, barring one or two, there was nobody in the Central Cotton Committee to support the move for increase in prices because whatever people were present there happened to be representatives of the mills. Their only desire was that they must have cotton and that it must be supplied to them at the price that had been fixed.

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

Besides this I want also to make a submission, through you, to the Honourable Minister in this connection. He has mentioned cotton-seed in the context of this Bill. In so far as cotton-seed is concerned I want to bring to your notice the contrast as between the price which the grower of cotton-seed receives for it and that, on the other side, which the consumer thereof has to pay for it. The price of cotton-seed prevailing in the C.P. is hardly ten rupees a maund whereas the cultivator who purchases the same cotton-seed for feeding his buffalo has to pay for it at the rate of sixteen rupees a maund. You may just consider how a difference of six rupees has been caused between the prices at which he sells and purchases. If this 'control' is to be the 'control' of a free country, in the true sense of the term, and if the Government wishes to become truly representative of the people it should take steps so as to reduce the middle-man's profit and to that end I make this appeal to the Honourable Minister.

I went to Bombay in connection with Cotton Marketing Committee. There I met a friend who was running a very big co-operative society in Bombay. In narrating his difficulties he stated that there was a body known as the East India Cotton Association which controlled the market in cotton. If someone, on behalf of the cotton-growers' co-operative society, wishes to sell cotton direct to the mills they hesitate to take it. On the other hand they are prepared to receive cotton offered to them by the middle-men. The real fact is that the East India Cotton Association itself is a middle-men's organisation. Hence, I want that the Honourable Minister should introduce some such device through the medium of the 'control' as might also be of benefit to the cotton-growers.

In saying so I lend my support to this Bill.

The Honourable Dr. Syama Prasad Mookerjee: Sir, Dr. Deshmukh has rightly referred to the price at which cotton cultivators are today called upon to sell their produce. We have not fixed the price of *kapas* for the very reason which Dr. Deshmukh has referred to. In fact while fixing the price of cotton this year we actually gave an increase of 10 to 12 per cent. over the previous

[Dr. Syama Prasad Mookerjee]

year price except, I admit, that we could not give any increase in the price of *jarilla*, which is the basic variety and is in fact the main produce of Dr. Deshmukh's province. Here there is an eternal conflict between the producer and the manufacturer. If we raise the price of the raw material naturally the price of cloth which is dependent to the extent of about 60 per cent. on the price of cotton will go up. The agriculturists demand that Government should make it possible for the supply of cloth at cheap rates and at the same time they demand that the price of cotton should go up. It is difficult to reconcile the two but we are trying to make such adjustments as we consider to be fair and equitable to the country's economy as a whole.

But there is one fundamental point which the House must not lose sight of. India is producing this year 28 lakh bales of cotton, which is slightly better than last year's production. Last year on account of natural calamities production went down by nearly 6 lakh bales. Out of this 28 lakh bales we set apart about two lakh bales which are really surplus to the requirements of the mills. Most of this is exported and some is used for other purposes. What is the quantity that our mills require for their normal production? If we want to produce four million yards of cloth from mills and 350 million lbs. of free yarn for our handloom industry, we will require at least 34 lakh bales of Indian and Pakistan varieties of cotton and six lakh bales of foreign cotton of longer staple. As I said just now we expect to get about 26 lakh bales of cotton from Indian production. For reasons which I need not go into we do not expect to get any large quantity of cotton from Pakistan. Therefore it is obvious that we are short of that essential quantity of cotton which we require for the minimum production of our cotton textiles. That, in fact, is the reason why there must be some control over production and distribution in an equitable way throughout the country. Hitherto this matter was left in the hands of the provinces. We have now taken power for the Centre. We have not imposed control over *kapas* yet because it will immediately affect lakhs of cultivators throughout the country and for the Government to set up a suitable machinery for controlling this will become almost an impossible affair. Therefore we have fixed the ceiling and the floor prices of cotton. How can that be utilised for the purpose of adjusting the price of *kapas*? It can be done by occasional requisitioning made by provincial governments. It can also be done by preventing large scale purchases either by merchants or by mills themselves, who may do so completely ignoring the control price that we have fixed. During the last fortnight we had discussed this matter in consultation with the Provincial Governments and other interests involved, and we have now introduced a zonal scheme. We have divided the country into regions which are mainly the cotton producing regions and we propose to prevent the free movement of cotton from one area to another except on permits to be issued by the Textile Commissioner. These permits will be issued to the mills in accordance with their requirements. This will prevent speculative purchases and also purchases which may be made by mills at prices higher than what we would like them to be. I agree with Dr. Punjabrao Deshmukh that this is a matter which presents considerable difficulties, but from what I have stated I believe the House will agree with me that we are trying to work out this control machinery in co-operation not only with the Provincial Governments but also with the other interests involved, keeping in view the essential requirements of the cotton producers. But, as I said at the beginning, the real remedy for us is to increase our cotton production. I can see no other long-term remedy for saving the future of the biggest industry in our country.

Shri B. L. Sondhi (East Punjab: General): Give us more money for our Bhakra project and we will do it.

Ch. Ranbir Singh: Give the incentive to the cotton producer.

The Honourable Dr. Syama Prasad Mookerjee: The incentive to the cotton producer will naturally be to fix prices which we consider fair and equitable, and are comparable to other agricultural products. And that we constantly do.

Dr. P. S. Deshmukh: As well as to the price paid for imported cotton.

The Honourable Dr. Syama Prasad Mookerjee: I will come to that. And that we propose to do by constantly reviewing the position. I may tell the House that some time in January or February we will review the price position so far as the next year's production is concerned.

So far as the price that we have to pay for the imported cotton is concerned, there is some apparent logic in what Dr. Deshmukh says, that if foreign cotton can be purchased at such high prices, why not the Indian cotton be allowed to be sold at equally high prices?

Dr. P. S. Deshmukh: Not equally high, but at least something more than what it is now.

The Honourable Dr. Syama Prasad Mookerjee: There we should not look at the matter only from the point of view of the cotton cultivator. As I said, what is the object that Government have in view? We want that cloth should be produced at as reasonably cheap prices as possible.

Dr. P. S. Deshmukh: If the hon. Minister would forgive me I want to ask him a question. May I ask whether the millowners have not paid per bale something like Rs. 100 to Rs. 200 more than the control price and yet their profits were not affected—in fact they made equal profits?

The Honourable Dr. Syama Prasad Mookerjee: In some cases perhaps the millowners purchased at higher rates. But it should not be forgotten that the mills had during the last year fairly large reserves which they utilised. In fact this year we are going to have a carry over of 10 to 12 lakhs bales only which means it will not last for more than three months and in 1950 we may not have any reserves at all. Now that is a position which obviously no government can possibly face with equanimity. As I said, the only solution is to have a balanced agricultural economy for the country. Just as you want to grow more food we have also to grow more cotton and more jute, but all done in such a balanced way that our entire economy may prosper to the advantage of the people of this country. I shall bear in mind the suggestions which have been made today in enforcing the powers which the Central Government now possesses under the Act.

Mr. Deputy-Speaker: The question is:

"That the Bill further to amend the Essential Supplies (Temporary Powers) Act, 1946, be taken into consideration."

The motion was adopted.

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

The Honourable Dr. Syama Prasad Mookerjee: Is my hon. friend Mr. Naziruddin Ahmad moving his commas?

Mr. Naziruddin Ahmad (West Bengal: Muslim): It is the custom not to move them: they are to be left to the Draftsman. That has been the custom long established in this House.

Mr. Deputy-Speaker: The other amendment is by Prof. Shibban Lal Saksena. He is not here. But the amendment (to include "sugarcane") is foreign to the

[Mr. Deputy-Speaker]

scope of the Bill. Is Mr. Naziruddin Ahmad moving his other amendment to add the word "and" at the end of clause 2(a)?

Mr. Naziruddin Ahmad: It is a formality which cannot be left to.....

An Honourable Member: It is a formal one.

Mr. Naziruddin Ahmad: It is a formality which cannot be left to the Draftsman. I shall move it if it is acceptable. It is intended to connect the two parts.

Mr. Deputy-Speaker: I think they are connected.

The Honourable Dr. Syama Prasad Mookerjee: The semi-colon connects them.

Mr. Naziruddin Ahmad: Then it is all right.

Dr. Mono Mohon Das (West Bengal: General): Sir, I have got two amendments of the same nature. One is to clause 2 and the other is to clause 3. My amendments seek to delete the words "and other derivatives of coal". They do not seek to alter the principle or the provisions of this Bill but only to delete these words because in my opinion these words are absolutely unnecessary and are a misfit here. They will create confusions and complications to get rid of which this Bill has been brought forward. In the Statement of Objects and Reasons the hon. the Mover has said:

"It has always been assumed that 'coke' was included in the meaning of 'coal', and 'coke' has accordingly been under Central control. Some doubt has, however, been thrown on this assumption by a recent judicial decision. It was necessary, therefore, that the matter should be placed beyond doubt."

It appears from the Statement of Objects and Reasons that the Government wants to put coke within the meaning of the word 'coal' and for that reason they have inserted coke as well as 'other derivatives of coal' here. The word 'derivative', I submit, has got a scientific meaning of its own. The Chambers' Dictionary says that derivatives are all those articles derived from a certain thing. By the words 'derivatives of coal' we mean so many things—coal gas, coal tar which is used largely by the villagers, aniline dyes, that is chemical dyes including washerman's blue, and a large number of other chemicals and medicines too. From the Statement of Objects and Reasons it appears that the hon. the Mover of this Bill has no intention to bring these articles, namely, coal gas, coal tar, chemical dyes including washerman's blue, a large number of medicines and chemicals under the purview of Central control. Therefore it is not necessary at all that these words "derivatives of coal" should be here. I think the hon. Mover will kindly consider my amendments and the House also will accept them.

The Honourable Dr. Syama Prasad Mookerjee: This matter was considered by our law advisers and in view of certain doubts which were thrown by recent judicial decisions it was thought that it would be safer to define coal in this comprehensive way. Of course, as I said, a few minutes ago, the passing of this Bill does not mean that immediately we start controlling every commodity. The power is taken so that in case any emergency arises we won't have to come back to the Legislature. I can assure my hon. friend that we shall take good care to see that we do not touch at least the washermen, not to speak of the other commodities which he has mentioned. But in view of the very difficulties to which he has referred, about which doubt has been expressed by our legal advisers, I think it will be safer to leave the clause as it is.

Dr. Mono Mohon Das: Am I to understand that the Government reserves to itself the right to bring under control coal gas, coal tar, chemical dyes including washerman's blue and other chemicals and medicines too, if it wants?

The Honourable Dr. Syama Prasad Mookerjee: If that emergency arises, but not now.

Mr. Deputy-Speaker: Would it suit the hon. Member if we say "other derivatives of like nature"?

Dr. Mono Mohon Das: I do not want such a sweeping term as "derivatives of coal" which will create complications and confusion. If Government want let them enumerate all the articles which they want to bring under this category.

The Honourable Dr. Syama Prasad Mookerjee: If the control is actually imposed, then of course that will be done. Of course my friend consulted the Chambers Dictionary, I find our draftsmen referred to the Encyclopaedia and the Oxford Dictionary.

Mr. Deputy-Speaker: In view of the assurance given by the hon. Minister, does the hon. Member intend to pursue the matter?

Mr. Naziruddin Ahmad: The hon. Member's apprehension is that the Government is taking wide powers—not that they will be used. He objects to taking powers over things which are not intended at all to be used.

Dr. Mono Mohon Das: I don't press my amendments, Sir.

Mr. Naziruddin Ahmad: Sir, I move:

"That in part (b) of clause 2 of the Bill, the words 'and shall be deemed always to have been inserted' be omitted."

I also move:

"That to part (b) of clause 2 of the Bill, the following *Explanation* be added:

Explanation.—Clause (b) shall have retrospective effect as if it came into force on the 23rd day of November, 1946."

Mr. Deputy-Speaker: What is the difference in substance?

Mr. Naziruddin Ahmad: The difference to my humble mind would be a little substantial. It would remove some amount of torture over the English language. So long as the English language is used in the Legislature it should be in the proper form. I shall explain my difficulties at once and I believe the hon. Minister will sympathise with that difficulty and try to resolve it.

Mr. Deputy-Speaker: I think the hon. Minister has already considered this amendment.

The Honourable Dr. Syama Prasad Mookerjee: Yes, we have. I may mention that there is no chance of accepting this amendment. In fact, it is the same language as was approved by the Constituent Assembly and there Mr. Naziruddin Ahmad supported it.

Mr. Naziruddin Ahmad: I shall try to place my difficulties and ask the hon. Minister to reconsider the matter.

Mr. Deputy-Speaker: The hon. Minister seems to be aware of the difficulties.

Mr. Naziruddin Ahmad: No, Sir, I don't think so. The hon. Minister seems moved more by a sense of humour than a sense of appreciation of the point.

An Honourable Member: You are also laughing!

Mr. Naziruddin Ahmad: Not at all. The hon. Member must fancy that I am not accustomed to wasting my valuable time and the valuable time of the House.

Sir, the position is this. Clause (b) tries to insert after the word "coal" in the original Act:

"(including coke and other derivatives of coal)",

and then the abjectionable passage comes that these words "shall be inserted, and shall be deemed always to have been inserted". I fancy the word "insertion" is a single momentary act, it is never a continuous act. If you insert certain words in an Act, the insertion is complete; you cannot say that it shall be deemed always to have been inserted.

The Honourable Dr. Syama Prasad Mookerjee: That is the real torture.

Mr. Naziruddin Ahmad: The hon. Minister has already made it clear at the beginning that what is meant is to give retrospective effect. I want to say that this clause shall have retrospective effect. As an authority on this method of expression, I shall cite Act XI of 1938, an Act which was presided over by Mr. N. N. Sircar, a very celebrated lawyer. There the amendment of the Hindu Women's Right to Property Act was under consideration and it was desired to give retrospective effect to the Act. In sub-section (2) of section 1, it stated like this.....

Mr. Deputy-Speaker: The hon. Member may continue after Lunch.

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

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

Mr. Naziruddin Ahmad: As I was submitting, the idea in sub-clause (b) of clause 2 is that the words "including coke and other derivatives of coal" shall be inserted and shall have retrospective effect as if it was enacted on the 23rd day of November 1946, which was the date on which the Act which is being amended by this Bill came into operation. As the hon. Minister stated quite frankly that this clarification should have retrospective effect, I want by my amendment simply to say that this shall have retrospective effect. As an example, I submit that the language of Act XI of 1938 of the Central Assembly, which was in connection with the Hindu Women's Right to Properties Act is on the same lines. It was made as a clarification and it was desired that this clarification should have effect from the date when the original Act was passed. It said, "Sub-section (2) of Section 1 shall have retrospective effect as if it had come into force on the 14th day of April 1937". The phraseology in the Bill is not very happy. The words "shall be deemed always to have been inserted" seems to be rather a queer way of putting it. Insertion is a single act. You can insert it today or with effect from the date of the original Act, but it cannot be deemed to have been always inserted. I submit my amendment would make it much better not only to read but also to hear.

An Honourable Member: What is yours?

Mr. Naziruddin Ahmad: I have already read it. It is that this "clause (b) shall have retrospective effect as if it came into force on the 23rd day of November 1946". The occasion for this change arose in this way, that the meaning of the word 'coal' was always understood to include derivatives of coal, but on account of a ruling of a High Court this meaning came into doubt and it is necessary to remove that doubt. That is clear from the Statement of Objects and Reasons. It is necessary to clarify this and to clarify that it shall have effect from the date on which the original Act came into force. Therefore, nothing could be more original than to say that this clause (b) shall have retrospective effect as if it came into force on the date the original Act came into force. As I have said, this was the wording in a well drafted Act and it was enacted during the time of Mr. N. N. Sircar, one of the greatest of Law Members. I submit this should be acceptable to the Minister.

Mr. Speaker: Amendment moved:

"That in part (b) of clause 2 of the Bill, the words 'and shall be deemed always to have been inserted' be omitted and the following *Explanation* be added to part (b):

Explanation.—Clause (b) shall have retrospective effect as if it came into force on the 23rd day of November, 1946."

The Honourable Dr. Syama Prasad Mookerjee: I do not think it is necessary to disturb the draft as I have proposed. In fact, we have taken exactly the same language as has been embodied in the amending Act passed by the Constituent Assembly, and we would create complications if we insert new phraseology at this stage.

So far as the object is concerned, there is no difference between the hon. Mover and Government. Both of us desire that this should be deemed to have been included from the very commencement of the Act. The difference between the Act which he has just read out which was apparently piloted by Mr. N. N. Sircar and this one is that this amends the original Act passed by Parliament three years ago and the other Act was one passed for the first time.

Mr. Naziruddin Ahmad: No, no.

The Honourable Dr. Syama Prasad Mookerjee: In any case, in spite of the difference that may exist on the philosophy of insertion, I do not think there is any case for accepting the amendment moved by the hon. Member.

Mr. Naziruddin Ahmad: May I explain that the drafting.....

Mr. Speaker: The hon. Member is trying to have a second speech by way of explanation. The Minister has replied. He is unwilling to accept the amendment. I do not think there is any scope for further arguments. If he wishes, I shall put the amendment to the House.

The question is:

"That in part (b) of clause 2 of the Bill, the words 'and shall be deemed always to have been inserted' be omitted and the following *Explanation* be added to part (b):

Explanation.—Clause (b) shall have retrospective effect as if it came into force on the 23rd day of November, 1946."

The motion was negatived.

Prof. Shibban Lal Saxena (U.P. General): Sir, I wish to move my amendment to the clause, notice of which I had given.

Mr. Speaker: The hon. Member is somewhat late. I wish he was present when the amendment was called out.

Prof. Shibban Lal Saksena: Sir, I had gone to Bombay to give evidence.

Mr. Speaker: The point is that he was not present at the time the amendment was called out. I do not think it would be permissible for him to move it now.

Shri H. V. Kamath (C.P. and Berar: General): This morning during Question Hour when an hon. Minister was not present you allowed his questions to be taken up.

Mr. Speaker: But some arrangement was made by the hon. Minister earlier to have the questions answered. If the hon. Member had left the amendment to some other Member, I might have considered it.

Prof. Shibban Lal Saksena: Then, may I say something on the clause?

Mr. Speaker: He may, if he likes.

Prof. Shibban Lal Saksena: Sir, this Bill proposes to include raw cotton and cotton seed among the essential items over which the Central Government can exercise control. I propose that sugar cane may also be included in those items.

Prof. N. G. Ranga (Madras: General): How is this relevant to clause 2?

Mr. Speaker: Let me hear what the hon. Member has to say.

Prof. Shibban Lal Saksena: Sir, the Preamble speaks of certain items but has omitted sugar cane. I wish the words "sugar cane" were also there.

Mr. Speaker: I must uphold the objection of Prof. Ranga. The hon. Member is trying to introduce a new matter which is not within the scope of this Bill. Had he been permitted to move his amendment, the matter would have stood on a different footing.

Prof. Shibban Lal Saksena: What I mean to say is that the hon. Minister is trying to take power for the Central Government to exercise control over certain items. I suggest that sugar cane may also be brought as one of those commodities.

Mr. Speaker: There is no point in pursuing that matter.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Mr. Speaker: The amendment of Prof. Shibban Lal Saksena falls through for the same reason. Then there is an amendment in the name of Dr. Mono Mohon Das.

Dr. Mono Mohon Das: I moved a similar amendment to clause 2, which was not acceptable to the hon. Minister. I do not therefore want to move this amendment.

Pandit Thakur Das Bhargava (East Punjab: General): Nor do I want to move my other amendments, Sir.

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I welcome this measure, particularly the introduction of this clause. But as in the case of cotton, I only wish that the price of sugar cane were also fixed.

Just like cotton which is the main ingredient in the manufacture of textiles, sugar cane is the main ingredient in the manufacture of sugar. Sir, it is a well known fact that cotton accounts for a good percentage of the cost of production of textiles. In the case of coarse cloth, cotton accounts for as much as 60 per cent of the cost of the manufactured product. In the case of fine cloth, the price of cotton is 33 and 1/3 per cent; labour and other items accounting for the balance of 66 and 2/3 per cent. If, therefore, cotton and cotton seed prices have not been controlled so far it is on account of the abnormal work that is involved in putting the controls into force. Once it was controlled and cotton prices were fixed; but the commodity had to be decontrolled and prices of textiles soared up partly on account of the rivalry between the mill-owners and the cotton growers. As between the mill-owner and the grower, certainly my sympathies are with the grower. Sir, in the old Assembly I was representing the Ceded districts, which consisted of five districts out of which four produced cotton. Adoni is one of the biggest cotton markets of South India. But the main difficulty is that there is no co-ordination between the Industries Minister who fixes these prices and the Agriculture Minister who is responsible for fixing the area under cotton. I wish there were greater co-ordination between these two wings of Government. What I want to say is this. Recently cotton prices soared up for the reason that a considerable portion of the acreage under commercial crops were all of a sudden converted into area under food crops. Later on it so transpired that the cultivators found the food crops to be an unremunerative proposition and wanted to switch back to commercial crops. The result was that in the transitional period a good portion of the acreage was allowed to lie fallow. Some encouragement was no doubt sought to be given to the producer by subsidising the growth of cotton to the extent of two crores or something of the kind. Even that has not been found to be sufficient. The danger is want of finance and want of marketing facilities for these people. There should be crop planning and the provincial Governments should have the power to plan how much acreage should be under sugarcane, how much under cereals and how much under cotton. This is what the hon. Minister meant when he said that there ought to be a balance between all these crops. Unfortunately, on account of various movements, one movement or another affecting one interest or another, the provincial Governments are terribly afraid of introducing legislation so that they may have power to plan crops or limit the production of particular crops and allow the production of other crops. Some such power must be given to the provincial Governments. So far as the Central Government is concerned, greater marketing facilities must be given to them. I know the producer does not get enough; the mill-owner does not get enough; but the person who enters into forward contracts, months in advance, gets away with a large profit. The poor grower falls a captive under the middleman, and undertakes to sell four months later. He does not know what the world conditions would be, how much cotton would be available in the market, whether there would be a larger demand or a lesser supply. There is great danger in allowing this middleman. He waits until only a very small quantity is available in the market and pushes up his price. I am afraid this alone will not afford the required results; various other steps have to be taken. I would suggest there should be a Finance Corporation for this purpose. At any rate, financial facilities must be given to the growers and forward contracts regarding cotton ought not to be allowed much in advance. No doubt, you may never avoid a forward contract; it may be a month in advance, not for the next year's season.

Mr. Naziruddin Ahmad: That would be gambling.

Shri M. Ananthasayanam Ayyangar: Yes; that is what exactly takes place. That ought to be done away with. Then, I come to research. Sir, I am sick of hearing constantly our Ahmedabad mills saying that there is dearth of cotton

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and we have to purchase so much from Egypt and other places, because Pakistan was producing the long staple cotton which was used in the Ahmedabad mills. I read some years ago in the reports of the Cotton Committee that the continent of Europe, Germany and other countries, wanted not the long staple cotton, but only our short staple cotton. They processed the short staple cotton into some medium staple. This cotton was in large demand in those countries. With the aid of research, they were able to convert one staple and make it a longer staple by some process. How is it that so far as we are concerned, in spite of the fact that there has been the cotton cess, the Cotton Committee and researches in various parts of the country, we have not progressed. There is absolutely no co-ordination between the research department and the cultivator. In sugarcane, they have done much better. The Coimbatore sugarcane is now holding the field in various other parts of the country. So far as cotton is concerned, look at the position. We were in a position to export thirteen to seventeen crores worth of cotton to Japan. Japan is not a grower of cotton. It was taking our cheap cotton, converting it into goods and sending them back and they were competing in our own markets. Where has all that gone? Far from being an exporting country, on account of the munificence of the hon. Minister for Industry and Supply, two lakhs of bales are sought to be released. That is what he said, if I have understood him aright. The Englishmen who first came to India, went back and said, a kind of wool grows on the top of trees in India. We were the first persons to grow cotton, from the Vedic period. Where is that country which was in a position to clothe the entire world and whose cloth was in great demand in foreign countries? Today, we have to go about begging other countries; we are in that unfortunate position. There is one way traffic. He wanted to reduce the prices; we reduced the prices. I expect that with the large-heartedness of my hon. friend, the Minister for Industry and Supply, he will address himself to all the aspects of this problem not merely confining himself to this. I am afraid he may lay his very strong hand over the grower and reduce the prices and the business men of Bombay may get the better of this bargain and just crush the grower between the mill owners of Bombay and Ahmedabad on the one hand and the middlemen on the other. I hope all of us are safe in the hands of the hon. Minister and I trust that he may not use these large powers to the disadvantage of the grower. I hope that these and other powers that are given, will be used for the benefit of the grower and for the benefit of the textile industry.

Pandit Thakur Das Bhargava: Sir, I will add only a few words to what has fallen from the Deputy-Speaker. We are thinking only of long staple cotton and as far as long staple cotton is concerned, our country is in sore need of it. The only part of the country where it is grown at present is the East Punjab. In the East Punjab also, there are some districts that grow this. We had prospect of stepping up the growth of this cotton if Bhakra dam that is being constructed was properly attended to. I understand that instead of attending to it, now, the proposal is to see that the money which is required for this dam is not being given to it.

Prof. N. G. Ranga: That is tragic.

Pandit Thakur Das Bhargava: For the year 1950-51, we would require 21 crores of Rupees for this Bhakra dam; but the Government are giving only six crores. If the Government does not give this amount, say at least nine crores more, I am afraid that this work will be retarded a great deal and we may not even see this completed in 1956-57 or even later. My humble submission is, instead of giving our attention to the palliatives, let us try to go to the root of the question. If you succeed in growing this long staple cotton in the East Punjab, all your difficulties will be solved. You need not have recourse

to research and all other things and the long staple cotton which we need will be readily available in this country. I would rather beg the hon. Minister for Industry and Supply to use his good offices in getting more money for the Bhakra dam scheme. My humble submission is that the real solution lies in more production than in control. I am also a member of the Cotton Committee. Last time when I attended it, there were complaints from every side. The cultivators complained that they were not getting a square deal and that they cannot even fully recover their cost of production. I do not know how far their complaint is justified. I am glad that the Government has been kind enough to increase the rate in regard to other cotton except jarilla. All the same, I do feel that the complaint of the cultivators is to a certain extent correct. When we are importing cotton, we pay a great deal more; but so far as our cultivators are concerned, we are not fully alive to their interests. At the same time, there is a certain conflict between food, cotton and jute. It is very difficult to solve this conflict. When we want more food, we cannot see that more land is allowed to the cultivation of cotton. My humble submission is that we should have a balanced economy. If cotton brings in more money, there is no reason why cotton should not be allowed to be grown over a greater area. All the same, the real aspect of the question which I want to impress is that when lands are already under cultivation, you have only to supply water and there is nothing more to be done. This can only be done by not stopping the river valley schemes. I would therefore request the hon. Minister for Industry and Supply to use his good offices to see that these river valley schemes are not stopped.

Prof. N. G. Ranga: Sir, I am whole-heartedly in agreement with what my hon. friend Pandit Thakur Das Bhargava has said, with regard to the irrigation projects in East Punjab and I sincerely hope that the four Ministers who happen to be here for the time being will do their best to see that sufficient funds are made available for that project. It cannot be argued that sufficient money would not be available merely because of sterling or dollar exchange difficulties or anything like that; because, this money can be arranged in our own country and it can be utilised for payment of all the material and labour that will be engaged in our own country from our own resources. It is a well known fact that cotton under irrigation yields very much more—sometimes more than twice as much—than cotton under rain-fed cultivation and if you really want long-staple cotton, then you can't do better than develop projects in

3 P.M. East Punjab. I can't say I am in favour of this particular clause nor can I say that I am satisfied that Government are justified in seeking to extend these powers to raw cotton and cotton seed. My reasons are slightly different from those advanced by the Deputy-Speaker. The Deputy-Speaker started saying if you have controlled the prices of sugarcane, you should be prepared to control the price of cotton and cotton seed. I don't accept that argument. I dare say some of the members of this House would remember how the price of sugarcane came to be fixed years ago. It was not because the price of sugar was being fixed but because it was then felt that the sugarcane growers were so weak compared to millowners that they had to be protected. If protection were to be given to producers or manufacturers of sugar, then surely the producers of sugarcane also should be protected. It was for that reason the prices of sugarcane came to be fixed—not controlled. It was to be fixed by the Provincial Government but it was possible also for the Central Government to make suggestions to provincial governments. That is the genesis for the fixation of sugarcane prices. Do we or do we not want the fixation—not control—of the price of cotton and cotton seed? My idea is that we don't need it and we should not try to control it. Why do I say so? Is it because I am opposed to all fixations or controls—No, Sir. But because I know if you were to fix the prices of these essential raw commodities, the method adopted by Government is unsatisfactory and too arbitrary. The prices are not fixed for agricultural commodities in the same way as for manufactured

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ones. When they consider fixation of manufactured goods' prices they take into consideration the cost of production, reasonable margin of profit in addition to making allowances for depreciation and various other considerations. But when they come to fix prices for agricultural produce, they do not seem to take all these points into consideration at all. They seem to have a rule of thumb and they fix the prices more in relation to prices of manufactured goods that emanate from these raw materials than in relation to the standard of living of the agriculturists, their cost of cultivation, and the various charges they have to meet with the result that in most cases the prices fixed are uneconomical. Just now Pandit Bhargava said that before the Central Cotton Committee various speakers complained that the floor prices fixed for cotton did not leave enough for our agriculturists to maintain themselves. Indeed they did not even cover their cost of cultivation in most cases and that was the reason for the acreage under cotton going down within the last 5 years and it reached rather an alarming state of things during last year and our Agriculture Ministry woke up to the need to encourage agriculturists and grow more and more cotton. Now how is it possible for Government to persuade our peasants to grow more cotton or sugarcane or foodgrains or oilseeds? One of these two things is possible for them. One is to introduce such varieties of these crops as would yield twice or thrice as much as normally would be possible so that the peasant would be induced to grow more of these varieties and sell and realize a bigger income. Are they able to do it? The machinery as was complained by the Deputy-Speaker, is quite unsatisfactory. Then other method is to raise the price of these things. Are the Government going to follow this policy? Last year when they fixed floor prices for cotton there were complaints—even the East India Cotton Association complained. But Government turned a deaf ear by saying what they did was enough. Thereafter they found that these prices were not enough as cotton was not moving into the market and on pressure from the textile industry itself, Government found it necessary or possible to raise the prices. That is not the procedure we would like Government to adopt and similar procedure is likely to be followed if this particular clause is accepted by this House without a proper assurance from the hon. Minister concerned. If we are to have a proper crop planning in this country—I am in agreement with others in this matter—then we must make up our minds as to how we are going to satisfy our own agriculturists and safeguard the interest of land, cattle, agricultural labour and peasants—all these put together. Why do I talk about lands? Because there is only a depth of soil that can be made use of by crops that are to be raised on any particular piece of land and if that soil is to be exhausted by constant cropping then the fertility would go down. Similarly if you are not going to feed your cattle properly, then the bullock power would go down. To-day we have reached a stage when all these four assets are being depleted and exhausted day after day, merely because the Government has not been pursuing a proper policy of prices. During war the then Government found it necessary to discourage growing of cotton and they wanted more lands under foodgrains. Therefore they offered a kind of subsidy to encourage people to give up cotton growing and they did so. We find it necessary to induce peasants to grow more cotton. What is the encouragement you are giving—practically nothing. If any encouragement is being given to-day, I would very much like the hon. Minister to tell us so. Secondly during war there was no market at all for our internal cotton as the Japanese market had collapsed and the then Government came forward with the offer to purchase the surplus after fixing a floor price and they had invested several crores of rupees in that direction. To-day what is the encouragement our Government is prepared to give in order to see more and more cotton is produced. They should be thinking of fixing a price which would cover the genuine cost of cultivation and also leave sufficient margin to maintain a decent standard of

living for the agriculturist and help him to get out of the clutches of the middlemen. Not very long ago the Textile Advisory Committee met in Delhi and they were asked to consider whether it would be advisable to control the prices of raw cotton—in Kapas and seed. They advised the Minister that they were not at all in favour of such control and they did not think it would work. At the same time they said that in order to get round the mischief of the middlemen they themselves were trying to establish direct contact with growers and have some sort of forward contracts and assure themselves of sufficient supplies and some of them were competing among themselves to pay the grower a higher price than they could get from out of these controlled rates.

Why were they willing to advise the Government to fix a higher price? There is some sort of mischief here. If they fixed higher prices, as a basis for legitimate transaction, then the position would have been better *vis-a-vis* the consumer *vis-a-vis* the manufacturer as well as the middleman. On the other hand if the Government were to fix lower prices, lower than the cost of cultivation, then it would be possible for them to strike a more favourable bargain with the agriculturist, even though they might be paying a little more than the control price, and the agriculturist would always be at their mercy. Sir, I protest against this method, and that is why I am anxious that the Government, if they take this power at all, to control the price of raw cotton and cotton seeds, then they should follow the same policy that they follow in the fixing of industrial products, and take into consideration the interests of the agriculturists themselves, consult the agriculturists and not consult only the textile manufacturers. I therefore request the Government, if possible, not to press the passing of this clause and extending their power to control prices of raw cotton and cotton seeds, and if that is not possible, at least to try not to enforce it, as far as possible, and to enforce it, if and when they do so, mainly in the interests of the cotton grower, and not in the interests of the middleman and the textile manufacturers.

Lastly, I wish to say that these forward contracts are not bad in themselves. What we want to do is to control speculation. We have been asking this before the Oil Seeds Committee, in the Indian Central Cotton Committee and from other crop committees that Government should take early steps to control speculation, and if necessary bring in the necessary legislation before this House and get it passed. But there has been inordinate delay in this matter, and I do not know why. I sincerely hope the hon. Dr. Mookerjee will try to see that the Government gets the necessary legislation passed to control speculation and thus protect both the consumers on the one side and the producers on the other.

श्री लक्ष्मीनारायण साहू : वाचस्पति जी, एक बात मैं कहना चाहता हूँ कि जब तक रूई हम ज्यादा पैदा न करेंगे तब तक देश की हालत अच्छी नहीं होगी। नहीं तो भला करते हुये आप और भी खराब कर देंगे। बरार में जो रूई का जन्मस्थान है वहाँ जरीला काटन जोर जबर्दस्ती करके अभी चली गई है इससे उन लोगों को फायदा नहीं है। इससे उन लोगों को बहुत नुकसान पहुंचता है। जरीला काटन उस जगह पर ठीक होगी या नहीं होगी इसकी अच्छी तरह से परीक्षा नहीं हुई। फिर ऐसा हुआ कि जरीला काटन वहाँ अच्छी तरह से नहीं हुई और फिर जो काटन और जो सीड्स (seeds) हैं, मीडियम (medium) और शार्ट (short) स्टैपल (staple) सीड्स जो है उससे गाय बछड़ों के खाने के लिये फायदा होता है। जो लॉन्ग स्टैपल (long staple) की सीड्स

श्री लक्ष्मी नारायण साहू

हैं उनको गाय बछड़े नहीं खाते। इस लिये उन लोगों को हुत दुःख पहुंचता है। मैं चाहता हूँ कि जब इस काम को जब सरकार अपने हाथ में लेती है तो अच्छी तरह से उसको विचार करके उसका उपयोग करे। नहीं तो जैसा कि सरकार काटन ऑर्डिनैन्स (Cotton Ordinance) चला देती है और अब भी एक एक्ट (Act) बना देती है और फिर हिन्दुस्तान की हालत अच्छी करने के लिये इच्छा करती है, अमंगल करेगी तो यह ठीक नहीं होगा। यह एक बात मैंने कही।

दूसरी बात मैं कहना चाहता हूँ कि एक जमाना ऐसा था कि उत्कल में रुई बहुत पैदा होती थी। अब आप देखते हैं कि उत्कल में बहुत कम रुई की पैदावार होती है। इस बात को विचार करके, समझ करके कि उत्कल में जैसे ज्यादा रुई पैदा हो सकती है, इस बात की कोशिश करनी चाहिये। मैं देखता हूँ सब बोलते हैं कि उत्कल में अब चावल बहुत पैदा होता है। यह सब के लिये जैसा एक वेद वाक्य हो गया है। परन्तु मैं देखता हूँ कि उत्कल में जितना चावल होता है वह उन लोगों के लिये काफी है। उस से ज्यादा नहीं। चावल के साथ कपास कैसे पैदा होगी यह सोचना चाहिये। वहाँ आदमियों के पास हाथ में पैसा ज्यादा कैसे आयेगा। अगर वहाँ पर ठीक तरह से प्रबन्ध नहीं किया गया तो उत्कल तरक्की नहीं कर सकेगा और नीचे हो जायेगा। इस लिये मैं विशेष तौर से शिल्प मन्त्री जी को कहूँगा कि इस तरह की कोशिश करनी चाहिये जैसे वहाँ पर काम को पैदावार ज्यादा हो सकती है।

(English translation of the above speech.)

Shri Lakshminarayan Sahu (Orissa: General): Sir, I want to say that unless we produce more cotton, conditions in the country will not improve. Unless that is done you will not improve matters but rather make them worse. *Zarilla* cotton has recently been introduced per force into Berar, which is the home of cotton. This is not beneficial to the people there but has, on the other hand, caused them a good deal of loss. It has not been tested properly whether or not *Zarilla* cotton would be produced there very well. It so transpired that *Zarilla* cotton did not yield a good crop there. Moreover there is an additional advantage in the case of medium and short staple seeds inasmuch as these are eaten by cows and calves. The long staple seeds are not eaten by the cows and the calves. Thus a lot of hardship is caused to those people. I want that when the Government takes such a task into its own hands it must act after full deliberation. Otherwise, it will not be good if it proceeds in the same way as it does in promulgating a Cotton Ordinance and then framing an Act and thereby intending to improve conditions in India.

There is something more that I want to say. There was a time when cotton was produced in abundance in *Utkal* (Orissa). Now, as you see, much less cotton is produced in *Utkal*. Considering the fact that as more cotton can be produced in *Utkal*, efforts should be made in that direction. I find everybody saying that rice is at present produced in abundance in *Utkal*. This has almost come to be a gospel truth. But I find that the rice that is produced in *Utkal* is just enough for these people. Nothing more than that. We should think as to how will cotton be grown along with rice? How will more money come into the hands of the people there? If things are not managed properly there,

Utkal will not be able to prosper and will go down. I would, therefore make a particular request to the Minister for Industries to make efforts so that production of cotton there could be increased.

Mr. Naziruddin Ahmad: Sir, this clause is open to grave misapplication, unless extreme care is taken. This is meant to amend the Essential Supplies (Temporary Powers) Act of 1946. This is a remnant of those controls and control laws after the war was over, and it was then understood that this power would be temporary. In spite of that, these powers have been perpetuated and more power is being taken from time to time.

Sir, with regard to control by government of anything, the only effect has been that the things controlled have gone out of the market, the grower does not get an economic price for his produce, and the purchaser or the consumer ultimately gets at a huge price, and there is blackmarketing.

There are three competing things which have to grow out of the land which is now a fixed quantity. Food must be grown from the land. Along with that comes the competitor cotton. This cotton has got to be grown from the same quantity of land. And a third competitor is jute and we have to produce jute also from the same quantity of land. Reclamation of land is now out of the question. Bhakra Dam project has gone to the winds. Irrigation water is not to be had, and yet all these powers are being taken, without showing the House any means of effecting these purposes. So far as food is concerned, it is produced by the growers, but the procurement policy is most discouraging and economic price is not assured to the producer. Similar would be the effect on the cotton grower. And with regard to jute production, there is ample jute in East and West Bengal, and if there is over-production, prices would go down, because there will be cut-throat competition. There is no dearth of jute. The question is only one of accommodation. I know the situation between India and Pakistan on account of various reasons, specially devaluation, is difficult and delicate and I do not pretend to understand the real situation.

Shri R. K. Sidhva (C.P. and Berar: General): But we must make our country self-sufficient.

Mr. Naziruddin Ahmad: The jute produced in the two Bengals would be enough to supply the whole world.

A1 Honourable Member: But how to get the jute from East Bengal?

Mr. Naziruddin Ahmad: Jute somehow or other should be obtained from East Bengal on reasonable terms, if possible. I also feel that the attitude of East Bengal and Pakistan in this respect is not very satisfactory. However, it is a matter of business interests between the two countries and it will not be beyond the capacity of our Government to see a way out. On the other hand, on the fixed quantity of land the scheme of producing both cotton and jute would be rather contradictory—each would cut at the production of the other. In the circumstances I submit that the new power should be exercised with a great deal of caution to prevent the mischief which it has been so long impossible to prevent.

Shri T. A. Ramalingam Chettiar (Madras: General): Sir, I am sorry there is some sort of misapprehension about the whole matter. My friends who have been speaking seem to be under the impression that it is possible to grow cotton everywhere and that it would be profitable to grow cotton on any land. It is not a fact. There are lands which can grow cotton and others which cannot. Not only that, there are lands which with irrigation can give very good results in cotton and there are other lands which cannot take water and

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cannot grow cotton. So you cannot apply as a sort of general rule that you can grow cotton anywhere and everywhere. By increasing the acreage you are not going to increase the production. It is not a sound proposition.

It was said that we were able to export two million bales of cotton in the old days and why not utilise it here. There are two things to be said about it. A large portion of what was exported is being used in the cotton mills in India and the other portion which could not be used in the mills in India was wanted by only one or two countries, principally Japan and it was exported. Even at the present moment only cotton which is low in quality and can be used only for certain special purposes is being exported and even now about one million bales of cotton are being exported . . .

Shri M. Ananthasayanam Ayyangar: Two lakh bales.

Shri T. A. Ramalingam Chettiar: About a million even now.

Shri M. Ananthasayanam Ayyangar: Ask the Minister.

Shri T. A. Ramalingam Chettiar: That sort of cotton, if it is going to be grown or its production extended by increasing the acreage, will be useful not to our country but only for export. It is a fact that where cotton can grow irrigation will increase the production, not twice but three or four times. For instance in the part of the country from which I come the production of cotton in an irrigated land is something like four times more than in an unirrigated land nearby. If irrigation is extended certainly we can extend the production of cotton. I am entirely in accord with Pandit Thakur Das Bhargava that we ought to strain every nerve to give irrigation facilities for land which can grow cotton. But to say generally that you will be able to reduce the imports of India by doing this is I submit a mistaken impression. As regards the kind of cotton which we are importing we have tried our best for 30 or 40 years to grow long-staple cotton but we have not succeeded. Pandit Bhargava also said that that kind of long-staple cotton can be grown in East Punjab. He is making a mistake there . . .

Pandit Thakur Das Bhargava: No, no.

Shri T. A. Ramalingam Chettiar: It is no doubt a fact that what is grown in East Punjab is a little longer in staple than what is grown in some other parts of India. For instance in the part of India from which I come we grow cotton as long in staple as East Punjab. Surat is also growing cotton of the same staple. But for higher counts like 80, 100, etc. we want longer staple. That we have not yet been able to grow anywhere in India.

Pandit Thakur Das Bhargava: Experiments have proved that longer staple cotton can be grown in East Punjab.

Shri T. A. Ramalingam Chettiar: Long staple cotton means anything which is longer than 7/8 of an inch. What is wanted is not 7/8" but very much longer staple cotton. We have practically got all that we need of this sort of cotton. At present the longer staple which we want (which is longer than 7/8 to one inch) has to come from outside. We have to depend on the outside market for that and we have to pay a higher price.

Coming to the price, what we are fixing is no doubt low with reference to the cotton grown on unproductive soil. An irrigated land gives something like Rs. 800 to 1,000 an acre . . .

Prof. N. G. Ranga: May I put a question to the hon. Member? My hon. friend is aware of the fact that in fixing the price of cotton goods it is the cost of production not of the very productive mill but of the marginal mill that is taken into consideration.

Shri T. A. Ramalingam Chettiar: That is right. I do not deny it. All that I say is that to say that the price that is fixed for cotton is very low is wrong. In properly irrigated cotton land the income is between Rs. 800 to 1,000 which compares very favourably with any other crop.

Prof. N. G. Ranga: That is the gross income.

Shri T. A. Ramalingam Chettiar: Yes, but the expenses for cotton cultivation are nothing like what has to be spent for tobacco, sugarcane or plantains, which are the competing crops. The mistake is not in actually fixing the price of the several varieties of cotton. They are fairly all right. The trouble arose last year because in fixing the price of yarn and cloth they fixed a price which was a little higher than was justified. That was my contention before the Textile Advisory Board and I have expressed it in several places where this matter was considered. Therefore the mills were in a position to pay more than what was fixed for cotton. The sufferer on that account was not the producer but the consumer who was charged more for his cloth than what he ought really to have paid. To argue from that that any control which is exercised or any price fixed is going to affect the grower is not fair to such control. I am not enamoured of controls. I have been urging that the controls ought to go and if they go the consumer will be benefited. That has been my position . . .

Prof. N. G. Ranga: Also the producer.

Shri O. V. Alagesan (Madras: General): That is doubtful.

Shri T. A. Ramalingam Chettiar: I only want to say that the control exercised by the department was not working really against the producer but as I said it was against the consumer. If they could have fixed the price of cloth a little lower then everybody would have been served properly. That is the position.

As regards the actual clause now under consideration I beg to submit that it will be very difficult to administer the provision with regard to raw cotton and *kapas*, especially as cotton seeds are used for sowing, cattle food and other purposes. It also sometimes so happens that if the prices for cotton go down in the market it is compensated by the price of cotton seeds. A number of considerations have to be taken into account before prices are fixed. It is not generally done. They generally think that if the *kapas* price is to be fixed they need not consider the price of cotton seed and so on. Therefore, to administer it will be a very difficult proposition.

Also, there are different varieties of cotton which do not yield the same result. Ginning percentages vary. In some sorts of cotton ginning percentages will be higher and in others lower. If they have a general rule of fixing prices with regard to different parts of the country, some parts of the country will naturally suffer. So I beg to submit that Government will be very careful in dealing with this matter. As my hon. friend Prof. Ranga said the Textile Advisory Committee was not in favour of fixing the price of *kapas* and raw cotton for this very reason, namely, that it is a very complicated affair and the Government cannot administer it properly even though the millowners who were on the Textile Advisory Committee wanted to fix the price of cotton, including raw cotton, at a very low price.

With this request to the Government to be very careful in undertaking this—I would advise them first not to undertake the price fixation of raw cotton and *kapas*, but if they are going to do it I would ask them to consider all sides of the issue before undertaking such a complicated matter—I will support the clause that is before the House.

The Honourable Dr. Syama Prasad Mookerjee: Sir, the view-points which have been expressed by hon. Members indicate the complexity of the problem that we have to tackle. And that justifies the action of the Government up

[Dr. Syama Prasad Mookerjee]

till now in not having controlled *kapas* and cotton seeds. I can assure hon. Members that before we decide to control *kapas* or cotton seeds we will review the position with the utmost care and will do so if we are satisfied that such control can be satisfactorily implemented. But, as I said in the morning, the crux of the problem is that India is short of cotton for the time being and we have got to put our heads together for the purpose of enabling the country to produce this extra 10 to 15 lakhs bales of cotton that the country needs for maintaining its textile industry. Until that happens some sort of control and regulation become essential.

One point which was emphasized by my friend Mr. Ananthasayanam Ayyangar is with regard to forward contracts. I am glad to announce that we have recently decided to readjust the control orders in respect of forward contracts, and we have now provided that such forward contracts, which will be allowed only with effect from a specified date, will be permitted in accordance with the rules to be framed by the East India Cotton Association with the approval of Government and also with effect from a date to be notified by the Government of India through the Textile Commissioner. As was pointed out by one or two Members, some forward contract is essential—it becomes inevitable. So you cannot ban forward contracts altogether. But I do feel that if Government act wisely and also act in time there is no reason why we should not be able to check speculations in forward contracts in cotton which have had disastrous consequences during the last few years.

As regards my friend Mr. Ananthasayanam Ayyangar's anxiety to see that India may produce more cotton so that we may export the same, he forgot, apparently, for the time being that nearly 10 to 15 lakhs bales of cotton used to be produced in Pakistan. In fact India used to get about 10 lakhs bales of cotton from that area. Now we have lost that territory and naturally the economy of cotton production has been considerably disturbed.

So far as our future plans are concerned, hon. Members must have seen that two meetings were held recently. One was of the Indian Central Cotton Committee. The other was a conference which was called by my hon. colleague the Agriculture Minister. The object of both of these meetings was to devise ways and means so that progressively we may increase the production of cotton, particularly of those varieties which are now being produced in Pakistan. Of course, my friend Pandit Thakur Das Bhargava has rightly pointed out that if proper facilities are given in East Punjab it may be possible for that Province to produce larger quantities of the longer staple cotton. But whether the necessary grant for the Bhakra Dam project will be available or not is a matter which I must refer to my hon. colleague the Finance Minister. That is a question which I cannot answer. In any case I can assure the House that one of the matters which is now engaging the attention of the Cabinet is a co-ordinated plan for increased production of these vital commodities, and particularly of cotton. And I hope that very soon it will be possible for Government to announce its policy so that in the course of the next two or three or four years we may be able to attain our objective.

Lastly, about prices. Here we have witnessed during the last half an hour the eternal conflict amongst the consumer, the producer and the manufacturer which was displayed by my friend Mr. Ananthasayanam Ayyangar, who is the proverbial representative of consumers in this country, by my friend Prof. Ranga for the producers, and by my friend Mr. T. A. Ramalingam Chettiar. The last speech was a balanced approach, although I believe the Speaker will be accused of having spoken on behalf of the capitalist and the manufacturer. But I can assure you, Sir, that while fixing prices it has been the endeavour of Government to look not to the interests of the manufacturers alone but of the producers also.

Prof. N. G. Ranga: May I know what steps have Government taken, even in this Ministry, to consult the interests concerned so far as peasants go?

The Honourable Dr. Syama Prasad Mookerjee: We could not get accredited representative and the person to whom we could fall back upon was my hon. friend Prof. Ranga himself.

Prof. N. G. Ranga: Peasants have their organisations. They were never consulted.

The Honourable Dr. Syama Prasad Mookerjee: I can assure my hon. friend Prof. Ranga that so far as producers' interests are concerned the Provincial Governments themselves are very keen to protect them because they cannot afford to ignore the wishes of the large number of agriculturist producers within their zones. But here I would beg of the House to remember one aspect of the matter. If Government does not fix any control prices, prices will get themselves adjusted in relation to the prices for various agricultural commodities. Take for instance C.P. and Berar. There the production of cotton has gone down considerably in recent years. I was there about a month ago and I was told by representatives of producers as also by Government that the prices of groundnut were so attractive in that Province that the agriculturists did not want to produce cotton.

What is it that Government have done? What Government have been anxious to do is to fix the prices of cotton in such a way that they could bear equitable comparison with the prices of foodgrains. It cannot be suggested by any Member of the House that we should deliberately fix the prices of cotton so high as will react on prices of food grains. Obviously, there must be some co-ordinated policy adopted by Government. And here again, the demand is made by all sections of the House that prices of essential commodities must come down as quickly as possible.

Prof. N. G. Ranga: Not unconditionally.

The Honourable Dr. Syama Prasad Mookerjee: If Government have to take steps for the purpose of reducing prices of essential commodities, of which food and cloth naturally occupy very important positions, and at the same time, if Members demand that we should go on giving more and more prices to the agriculturists than would be justifiable, then obviously you cannot give effect to the Central policy which I believe is the policy adopted by the House as a whole. What we have to bear in mind is this: the prices which we will fix must be economic, the prices which we will fix must enable producers to grow more. These are the two important considerations which must be kept before us. Subject to this, if any attempt is made by Government to bring down prices to a reasonable level, I don't think there will be any opposition from any quarter of the House. In any case, the debate which has taken place amply justifies that during the transitional period, until and unless there is ample production in respect of these important commodities, some powers of regulation and control must vest in the hands of the Government and in spite of the alarm expressed by my friend Mr. Naziruddin Ahmad, I believe, Sir, the House will accept the Bill as has been proposed by me.

Mr. Speaker: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. Syama Prasad Mookerjee: Sir, I beg to move:

"That the Bill be passed."

Mr. Speaker: Motion moved:

"That the Bill be passed."

Prof. Shibban Lal Saksena: Sir, I was a little surprised at the attitude of my friend Prof. Ranga. Probably he thought that this Bill is intended to bring down the prices of cotton only, but in fact I wanted power of control given to the Centre mainly for solving the main problem, the problem of ensuring to the cultivator a proper return per acre. The problem in these commodities, whether it is cotton or sugarcane, is not that we should fix prices for them but that per acre of the field the cultivator must get more return and therefore I want Central control so that they may be enabled to get per acre of land more yield of these commodities. I hope that this control is not being taken merely to fix prices but to intensify efforts to produce per acre of land more cotton and more of other important commodities. For the last fifteen years the U. P. and Bihar Governments were trying to do it but they have failed. Now I want that the Centre should do it. The Centre should spend much more on research and on transferring the fruits of that research from the library to the field. So far all the money that has been spent on research has been practically wasted because the results of the research were not being passed on to the field and the cultivator often used the same old antiquated methods.

Therefore, I want the hon. Minister to see that the control which the Centre is taking will be used for developing the cultivation of cotton in a manner that the cotton grower can stand in a fair position even in comparison to the best foreign countries. I don't see any reason why they cannot grow even Egyptian cotton. When Sind was part of India, experiments were made there and we were almost successful in producing a variety roughly like the Egyptian cotton. Though Sind is not part of this country now, still East Punjab is there and there might be other areas where we might grow fine cotton. I would certainly support the request of my friend Pandit Thakur Das Bhargava and my friend Mr. Chaudhuri that Government should see that schemes like the Bhakra Dam which will give an immediate return and will solve the problem of the country, are not axed in the manner they are probably being done.

Sir, while the hon. Minister is getting this Bill through the House, and we all have given him consent to get it through, I hope that he will not be satisfied only with fixing the prices but that he will see that very soon India will be the producer of a cotton crop which will be able to compete with world markets and be able to produce cotton of all varieties. There are varieties of cotton—brown cotton, yellow cotton and green cotton—produced in Russia. We may be able to produce all those qualities. It should be the main function of Government to try and see that we are able to produce our requirements of cotton. So far we were dependent on Pakistan cotton, but the attitude of Pakistan has recently been such that we must immediately take steps to see that we are not at the mercy of anybody. In spite of what my hon. friend Mr. Naziruddin Ahmad has said, I think there is no way out for us but to produce the required amount of cotton in this country. It is a thing which can be done. If, as I have stated, the results of research are carried to the cultivator we may be able to produce better cotton and get more per acre. It was said that on the same field we have to grow food, we have to grow jute, sugarcane and cotton and that we cannot do all those things. I say we can do all those things if we increase the yield per acre. So, the maximum attention should be paid to increase the yield. The prices cannot be reduced unless the cultivator has got a better yield. If per acre he produces double the quantity he is producing now he probably will get more than what he is getting

today in spite of lower prices. Therefore, after this control is taken by the Centre, they should see that improved research is introduced and more development undertaken while at the same time attempts are made to produce the best qualities of cotton.

चौधरी रणवीर सिंह: सभापति महोदय, मैं मसविदे का समर्थन करते हुये यह कहे बगैर नहीं रह सकता कि कण्ट्रोल (Control) से जो ताकत हासिल की जाती है उससे काटन (Cotton) पैदा नहीं की जा सकती। काटन तो खेत में उगेगी और उसे किसान ही उगायेगा। देश काटन के इम्पोर्ट (import) की बीमारी से छूट नहीं सकता जब तक आप किसान के लिये ऐसे हालात पैदा न कर दें जिससे कि वह ज्यादा काटन पैदा कर सके और इस वक्त जो कण्ट्रोल का यह बिल (Bill) है उसकी आवश्यकता ही नहीं रहेगी। आपने कहा कि आप कोशिश करेंगे। पर मैं आपसे पूछना चाहता हूँ कि आप चाहते हैं कि देश में कपड़ा और अनाज बहुत ज्यादा हो। इसके लिये सबसे पहिले यह जरूरी है कि पंजाब के बाखरा बान्ध को पूरा किया जाय। कल भी मैंने इसके बारे में जिक्र किया था कि इसका बनाना बहुत जरूरी है। वहाँ पर टनल (Tunnel) खोदी जा चुकी है और वह तैयार भी हो गई है। अगर पंजाब सरकार को रुपया नहीं दिया गया तो इस बात का बहुत खतरा है कि अगले सीजन (Season) में वह टनल फट जाय। अगर वह टनल फट गई तो फिर यह बांध कभी भी नहीं बन सकता है। यह बात आसानी से कही जा सकती है कि इस समय रुपया कहां से आये। इकौनौमी (Economy) के नाम पर ऐसी बड़ी स्कीम (Scheme) को चला नहीं जा सकता है। अगर इस किस्म की बात की गई तो मैं समझता हूँ कि इस तरह के एक दो बिल तो क्या हजारों बिल भी देश के अन्दर काटन पैदा नहीं कर सकते हैं। अगर आप सही मानों में यह चाहते हैं कि आपकी इण्डस्ट्री (industry) के लिये काटन मिले तो आपको जैसा कि मैंने बताया उस किस्म का इन्तजाम करना चाहिये। मैं दो तीन बातों के लिये आप से निवेदन करता हूँ और उनका इन्तजाम आपको करना होगा।

एक बात तो यह है और जिस की तरफ सरकार का बहुत ज्यादा पैसा भी नहीं लगता। जैसा कि मैंने कल भी कहा था और मैंने इस बात को अपने रेल्वे मिनिस्टर (Railway Minister) साहब को भी बतला दिया था और उन्होंने इस बात को सुन कर ताज्जुब भी किया था और उन्होंने कहा कि ऐसा कभी नहीं हो सकता। मेरे पास इस बात का सबूत है। इसके लिये एग्रीकल्चर मिनिस्ट्री (Agriculture Ministry) के एक सप्लाय अफसर (Supply Officer) की मददली गयी मैं जो कि २ हजार से ज्यादा तनखावा पाते हैं। मदद फेंसिंग वायर (Fencing wire) के। इस वायर को एग्रीकल्चर डिपार्टमेंट (Agriculture Department) ने अपने फार्म (Farm) के लिये मंगवाया था। एक आदमी ने नहीं मंगाया था बल्कि यू० पी० (U. P.) वालों ने इसकी डिमाण्ड (Demand) भेजी थी। दो साल तक मुतवातर कहने पर भी वह अभी तक नहीं पहुंचा। कम से कम चार पांच महीने से मैं अपनी एग्रीकल्चरल

[चौधरी रणवीर सिंह]

स्टैंडिंग कमेटी (Agricultural Standing Committee) द्वारा और मिनिस्ट्री द्वारा भी यह कोशिश कर रहा है कि किसी तरह से वह पहुंचे। मुझे खेद है कि जब मैं वाजपुर गया तो वहां के लोगों ने मुझे इस बात की याद दिलाई कि वह अभी तक नहीं पहुंचा। इसके वहां पर न पहुंचने से पैदावार में बहुत घाटा होता है। वह जो तराई भावर का एरिया (Area) है बहुत लम्बा फैला हुआ है। वाइल्ड एनीमल (Wild Animals) से अनाज को बचाने के लिये यह वाइर मंगाया गया था। उस एरिया में काफी तादाद में काटन और अनाज पैदा हो सकता है। इसके लिये सरकार को न बहुत खर्च करना पड़ता है और न बाहर से कोई ऐसी चीज मंगानी पड़ती है।

दूसरी चीज जिसे मुझे निवेदन करनी है वह यह है कि वाजपुर के एरिया को साफ करने के लिये वहां पर ट्रैक्टर (Tractor) आये हुये हैं और वहां पर एक ट्रैक्टर का आरगनाइजेशन (Organisation) भी है। वह ट्रैक्टर जब रेल्वे को पार करते हैं तो उनके साथ हैरो (Harrow) लगत हैं और रेल्वे का दरवाजा जब तक निकाल न दिया जाय या बड़ा न कर दिया जाय तो बराबर तक ठीक होती रहेगी। लेकिन मुझे दुःख के साथ कहना पड़ता है कि वह काम किसी एक आदमी का नहीं था, किसी एक आदमी की जमीन नहीं है, वह तो सरकारी जमीन है। इसके बावजूद ओ. टी. ओ. आर. (O.T.R.) से एक मामूली डिमाण्ड जिससे कि अनाज और दूसरी चीजों की पैदावार में काफी नुकसान पहुंच रहा है, उसको पूरा करने से इन्कार कर दिया। यह एक दो चीजें मैंने आपके सामने रख दी हैं।

आज सुबह मंत्री महोदय साहब ने कहा था कि किसानों की जो मांग है वह बहुत बेजा मांग है। एक तरफ तो आप कहते हैं कि चीजों के दाम कम होने चाहिये और दूसरी तरफ आप कहते हैं कि किसानों को ज्यादा पैसा देना चाहिये। तो यह दोनों बातें एक दूसरे के विरुद्ध हैं। मिसाल के तौर पर आप अगर कोई चीज पैदा करते हैं तो नैचुरली (Naturally) एक बात करनी पड़ेगी वह यह है कि जो प्रोडक्शन (Production) करने में खर्च होता है उसी हिसाब रख कर उसको मार्केट (Market) में रखना होगा। लेकिन अर्थ विज्ञान के कायदे कानून खेती पर लागू नहीं होते। ऐसा कुछ भाई समझते हैं जो रूल (Rules) हैं, जो लाज (Laws) हैं वह सिर्फ कारखानों पर ही लागू होते हैं। मैं नहीं समझ पाता कि जब आप किसी कारखाने की पैदावार को बढ़ाते हैं उसकी कीमत को भी बढ़ाना पड़ता है तो आप कैसे यह बात मान सकते हैं कि अनाज और काटन की पैदावार देश में उसकी कीमत कम करके बढ़ सकती है। यह जो किसान ज्यादा दाम मांग रहे हैं वह आपको ज्यादा दिखाई देता है। जैसा कि आपने कहा कि यह कोई किसान का इन्ट्रेस्ट (Interest) है, यह गलत बात है। किसानों का इन्ट्रेस्ट नहीं है।

एक बात मैं फिर दोहरा देना चाहता हूँ। आपने कहा कि किसानों का इन्ट्रेस्ट प्रान्तीय सरकार काफी एडवोकेट (Advocate) करती है। इस लिये वह एग्रीकल-चरिस्टों से घबराती है। मैं आपको बतलाना चाहता हूँ कि वह जमाना दूर नहीं कि इस हाउस (House) को भी एग्रीकलचरिस्टों से डरना होगा और बगैर उनकी मरजी के वह इस हाउस के अन्दर नहीं आ सकेंगे। यह देश किसानों का देश है। इस देश की आबादी ७५ फीसदी से भी ज्यादा किसानों की आबादी है। आप कहते हैं कि प्रान्तीय सरकार उन पर निर्भर है सो मैं आपको बतला देना चाहता हूँ कि सिर्फ एक साल की बात है इस बात का पता आप सब लोगों को चल जायेगा।

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

मैं एक दो बात कंट्रोल के बारे में भी कहना चाहता हूँ वह यह है कि इस बात का ख्याल रखा जाना चाहिये कि प्रोड्यूसर (Producer) और कंज्यूमर (Consumer) के दामों में बहुत अन्तर न हो। आजकल हम इस तरह देखते हैं कि अगर प्रोड्यूसर कोई चीज १० रुपया में तैयार करता है तो कंज्यूमर को वह १६ रुपया में मिलती है। मैं कहता हूँ कि जो चीज १० रुपया में तैयार होती है उसको कंज्यूमर को ११ रुपया में मिलना चाहिये। इस तरह का इन्तजाम आप कर सकते हैं तो सब जनता को फायदा होगा। इसकी एक मिसाल मैं आप लोगों के सामने देता हूँ। पंजाब से जो चना मद्रास को जाता है वह पंजाब से ७ रुपया मन में जाता है और मद्रास में वह २१ रुपया मन जनता को दिया जाता है। यह बहुत खराब बात है इस तरह की बातों को सरकार को दूर करना चाहिये।

Prof. N. G. Ranga: That is because of the railway bottleneck. You don't give transport.

The Honourable Shri K. Santhanam: We give all the facilities they want.

चौधरी रणवीर सिंह: मैं ट्रांसपोर्ट मिनिस्ट्री (Transport Ministry) को दावे के साथ कह सकता हूँ और मैं उनको गवर्नमेंट आफ इण्डिया (Government of India) के सप्लाय ऑफिसर की चिट्ठी दिखा सकता हूँ। इसके बावजूद भी ६ महीने हो गये अभी तक वह तार फार्म में नहीं पहुंची जो कि बहुत ही आवश्यक है।

तो मैं आपको यह बता रहा था कि कंज्यूमर से नहीं टकरा कर भी आप बहुत कुछ कर सकते हैं। अगर आप जरा दिल और गुरडे के साथ चले और कोशिश करना चाहें तो मैंने आपको बताया कि आप काफी कर सकते हैं।

[चौधरी रणवीर सिंह]

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[Ch. Ranbir Singh]

against the gate-reels and unless the gate is removed or widened, the inconvenience will continue to be felt. But I have to state with much regret that such a petty demand which was not made by a solitary individual has been refused by the O. T. R. authorities. The land actually belongs to Government and so many others and, above all, serious loss to the production of food grains and other crops is occurring. I have, therefore, placed these things before you.

This morning the hon. Minister had described the peasants' demands as 'much unjustified'. In one voice you wish to bring down the prices while in the other you want to benefit the growers more and more. The two stands are conflicting. For instance, if a certain commodity is produced, its marketing price will have to be fixed after taking into consideration the production expenditure. But some people think that the rudiments of finance hardly apply as far as cultivation goes. To say the least, the rules and bye-laws can apply to the factories only. I cannot understand the logic that whereas in the case of factories you increase prices whenever the necessity to bring up production is felt, you wish to increase the production of food grains and cotton and yet to procure it at reduced prices. The peasants' demand for increased prices seems exaggerating to you only. It is wrong to say, as you do, that the *kisans* look to their interest. The peasants have no interest of their own.

One thing I would like to repeat. You maintain that the peasants' interests are sufficiently advocated by the Provincial Governments who are, in fact, afraid of them. I wish it to be conveyed to this House that the day is not far off when it will also fear the agriculturists, and the Members will be unable to enter it without their assent. This is primarily a country of the agriculturists. It is they who constitute more than 75 per cent. of its population. You say the issue concerns the Provincial Governments. It is a matter of one year only when you will come to realise about it.

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

I wish to say a few things regarding the controls as well. One is that due care should be taken to see that there is not much difference between the producers' and consumers' prices. These days it is seen that the consumer pays sixteen rupees for an article which costs the producer only ten. I assert that an article produced at a cost of ten rupees should be available to the consumer at eleven. If you can arrange things this way, much benefit will result to all sections of the populace. I will like to cite one instance in this behalf. The gram transported to Madras from the Punjab is priced at rupees seven a maund whereas people in Madras can get it only at Rs. 21 a maund. This is much improper and the Government should take steps to stop it forthwith.

Prof. N. G. Ranga: That is because of the railway bottle-neck. You don't give transport.

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): We give all the facilities they want.

Ch. Ranbir Singh: I can challenge the Ministry of Transport on this issue and show them the letter from the supply officer of the Government of India in spite of which the wire in question has not reached the farm, even after a lapse of six months.

So I was endeavouring to tell that that much can be achieved without having a clash with the consumers' interests. I have said that if you take courage in both hands and make a determined effort, substantial results can be achieved.

Another point concerns cheap money. An Industrial Finance Corporation has been set up to promote and develop industry. I regret the absence of hon. the Finance Minister. I repeat what I said on the occasion of the discussion regarding the last Budget. If you mean to increase production of cotton in the country, then proceed with setting up an Agricultural Finance Corporation. An increase in production of *kapas* cannot be brought about until all the land known as waste-land in different parts of the country is brought under the plough. This will not be practicable till more tractors are imported. Only yesterday Sardar Bhopinder Singh Man had complained that small tractors are not imported in the country. I do not deplore this fact. The waste-land can be brought under cultivation by heavy tractors alone. Government has been quite wise for importing big tractors only. Government, however, do not adopt measures to provide with the cheap money whenever some *kisans* meet together to devise ways for the formation of a co-operative society to purchase tractors. I have no sense of humiliation in recalling the effort that I made to purchase a tractor in common with a few friends. We needed some money for it which was not to be had except at an interest of ten per cent. I did not intend to inconvenience my friends on this score, but, out of helplessness, I had to go to them ultimately to seek to have the required money from them without interest. A peasant with ordinary means, however, cannot get that much amount. I could not get it except at interest of ten or twelve per cent. when I went to the market in that capacity viz. as an ordinary *kisan*.

So I have conveyed these few points. These are a few hardships experienced by the peasants and are capable of solution without clashing with the interests of the consumers. You think that cultivation of cotton, sugar-cane and jute is possible only at the expense of one or the other. But I say it with authority that if you undertake to provide the agriculturist with cheap money and give the Punjabi agriculturist a free hand in U. P. and C. P., the problem can be solved within no time. You will be surprised to know that the Punjabi agriculturist holds as much as 70 per cent. of land in Bajpur Tehsil of a small district like Nainital. As such, I claim that give a free rope and cheap money to the Punjabi agriculturists, within one year there shall be no shortage of wheat left nor there will be any problem of sugar-cane, rice, cotton or jute.

Shri Mahavir Tyagi: Where will people of U.P. go?

Ch. Ranbir Singh: U.P. people do nothing.

Mr. Naziruddin Ahmad: Sir, I do not wish to repeat what I have said with regard to the general aspects of this question. The only effect of these controls is that the producer as well as the consumer are both put to a sacrifice. Some middlemen, some big magnates are the only persons who profit by this.

But I wish to draw the attention of this House—at least the literary section of it—to the state of affairs with regard to drafting of Bills. The little amendment which I moved and which was rejected has perpetuated a great anomaly. I wish respectfully to point it out to them. The whole point is that what would be the date of effect of the insertion of a certain passage into the parent Act?

Mr. Deputy-Speaker: Is it necessary or desirable for the hon. Member to repeat the arguments that he has already made out?

Mr. Naziruddin Ahmad: It is the same point, but a new argument.

Mr. Deputy-Speaker: But it is not going to serve any purpose.

Mr. Naziruddin Ahmad: But this is a relevant matter in the Third Reading stage and I wish to point it out. The whole question is what is the effect—the legal effect—of the insertion of a passage into a parent Act? As soon as it is inserted it remains there for ever till repealed. So, what is the point, I respectfully ask, in saying that it shall be deemed always to have been inserted? What is the point in the word “always”? If you insert it once it remains here for ever, at least till it is repealed. What is the point in emphasising its ver-lasting character? It remains there without any such words. I submit, sir, that the drafting has deteriorated and I should point out that my hon. friend's suggestion that in the Constituent Assembly I was a consenting party to this sort of drafting is entirely wrong.

The Honourable Dr. Syama Prasad Mookerjee: By not opposing.

Mr. Naziruddin Ahmad: I opposed it. But what is the use of opposing bad draftsmanship? Somehow the Government and the Ministers revel in bad draftsmanship, that it is impossible to create any impression on them. The hon. Ministers suffer from a kind of sensitiveness or rather a kind of bashfulness in admitting a mistake. The point is they don't want to admit their mistakes on the floor of the House. I have found that whenever I have communicated suggestions privately they have accepted them, but the same ones will be rejected on the floor of the House. (*An Honourable Member:* Then why not try the private method?) I have tried both and my experience is that the private method succeeds better than the public method. I, therefore, submit that there should be an attempt to improve the draftsmanship. It is a pity to see all sorts of mistakes scattered here and there, as for instance at the end of the long title there should be a full-stop. Who is going to look into these? Somehow or other the draftsmen have no time to look into these. There should be some kind of uniformity even in these small matters.

Mr. Deputy-Speaker: I would like to invite the attention of the hon. Member to a ruling given by the Chair on a similar previous occasion:

“The hon. Member has to speak on the motion ‘That the Bill be passed’. All these details have been fully thrashed out during the discussion which took place at earlier stages. The hon. Member must now confine himself to supporting or opposing the Bill.”

This is the ruling which was given in connection with a similar detailed discussion at the Third Reading stage. I would, therefore, ask the hon. Member to conclude his speech.

Mr. Naziruddin Ahmad: I support the Bill whole-heartedly, but oppose the bad draftsmanship.

Shri R. K. Sidhva: Sir, in the course of the discussion of this Bill some interesting points have been brought out. It was brought out that the Government are reconsidering today, in view of the economy drive, some of the productive schemes which they had sanctioned originally. My friend Pandit Bhakurdas Bhargava mentioned Bhakra Dam. I entirely agree with him that this scheme must be thoroughly supported by the Government and it is only fair that hon. the Finance Minister should know the consensus of opinion in the House on this subject. I therefore feel it my duty to raise my voice and point out that it is the unanimous opinion of this House that there should be no economy in the matter of the Bhakra Dam.

Sir, it is a well known fact that Sind was a desert. But the construction of the Sukkur Barrage—which is one of the biggest canal irrigation schemes—has converted it into a garden and granary with the result that it is even able to export food to other countries. From that experience I may tell the House that while we are deficit in food grains and cotton it is the duty of this Government to carry on with these productive schemes and not to pursue a false economy.

The Honourable Dr. John Matthai (Minister of Finance): On a point of information: may I know whether the hon. Member is equally keen on the other river valley projects?

Shri R. K. Sidhva: I may assure hon. the Finance Minister that we are very keen on these productive projects. I stated yesterday that it would be wrong on the part of Government to hold over industrial schemes like tool manufacture, steel production, hydro-electric projects, boiler factory and such other schemes which, within four or five years, are bound to bring happiness and prosperity to the country. Therefore, I hope the Government will bear in mind the sense of this House in this respect and see that these schemes are not held over.

As regards long staple cotton, I can also say that the Central Cotton Committee carried on research in a District called Tharparkar in Sind and a variety known in the Punjab and Sind as American cotton or 84F was being grown. I do not know, after the loss of these two provinces, what effort is being made by the Government to do research work in this long staple cotton in other places. My hon. friend Mr. Chettiar stated that cotton is not grown in every place. Similarly, all crops are not grown in all places. Even paddy is grown only in particular places where there is plenty of water supply and the soil is suitable. This is not applicable only to cotton. My point is, while we feel that long staple cotton is very necessary, Government must certainly see that we step up production of food and cotton. I do not know what they have been doing with regard to these things after we lost these provinces. They have got the bargaining power in their hands. Unfortunately, our Government has not given serious thought to this matter. I was pleased to hear from the hon. Minister of Industry and Supply that the Government are now considering the whole policy in a co-ordinated spirit. That is the thing that we have been asking here. One Minister says that he wants more lands for cotton; another Minister says that he wants more lands for sugarcane; and yet another Minister says that he wants more lands for food grains. That sort of thing will never bring prosperity and happiness to the country, and we may not be self-sufficient at any stage. Therefore, I would be very glad if the Government at the Cabinet level take up this matter and see that these schemes are put through and not held over for various considerations. I thought that was the only point to be specially stressed, and I am very glad that my hon. Friend Pandit Thakur Das Bhargava has brought up this point so that we may express our views on that. I wholeheartedly support this Bill.

Shri Biswanath Das (Orissa: General): Sir, I stand to congratulate Dr. Mookerjee for having got what all he wanted. After all, what is it that he got? He got more powers to control, which, I take it, under a scheme of responsible Government, as we have today in India, a National Government and responsible Government, means higher and deeper responsibilities. He has failed up till now in handling controls of textiles, and if that failure is to be repeated after all these powers, he goes down and with him we go down. I appeal to him, while giving him these wide powers, to bear this in mind.

Sir, my hon. friend Prof. Ranga joined issue with him. He did not want controls at the stage of primary production. I am afraid that if Dr. Mookerjee has failed, it was because of the unnatural process that he was taking up till now. How could you have controls at the top without having controls at the bottom? I do not understand it. Still, we have to bow down before better wisdom. I am glad now control starts from the bottom to the top. If it means mere control and leaving it to the local officials, I am afraid he goes down and with him, we. Let the controls be effective, in the sense of developing primary production as also manufactures, and to bring down prices.

[Shri Biswanath Das]

Unless both these things are done, control and all the higher and bigger powers conferred on the Government will be futile and useless, and all will be converted into sorrow. I am afraid that the looseness of the controls due to the unnatural process of controlling at certain stages, was responsible for giving ample opportunities to the businessmen and manufacturers to make huge profits. You may appoint Income-tax Commissions and Enquiry Commissions. Yet, you leave the gate wide open for black marketing and adding to the pile of huge sums of black market money that they have already got. Let me hope that with the powers that we have given him, he will utilise them to the fullest extent so as to fight not only against black marketing, but also keep up the promise to which the Government is committed, namely, to bring down the prices at least by ten per cent.

Sir, these controls will be useless unless you control cotton seeds also, which some friends object. I want full control even of cotton seeds. It was very painful to read that cotton seeds are exported in lakhs of tons out of India. I ask how could you feed your cattle? How could you have manure for your lands if you throw away this useful commodity on foreign countries. Therefore, I want full control. I would appeal to the hon. Dr. Mookerjee to see that with the powers that we have conferred on him, the export of cotton seeds is controlled and utilised to the best advantage of the country.

Sir, my friend Dr. Deshmukh took my breath away when he enunciated some of his theories. He wanted higher prices for cotton growers. So did my friend Prof. Ranga. Well, if the present prices are lower and if they are uneconomic, and if they do not afford a proper incentive for greater production, and you want the agriculturists to get proper prices, how could we do this unless you give power to the Government to control the prices and fix the proper prices. I am sure they cannot ignore the interests of the agriculturists, because he is the primary producer. You cannot have raw materials if you sacrifice the interests of the agriculturists. Therefore, I want his interests to be safeguarded.

Prof. N. G. Ranga: My protest is not against extending the control to the cotton producer, but against the manner in which the Government has been using these controls.

Shri Biswanath Das: In that I am with you. I have already stated that the controls are not properly used. My hon. friend Dr. Deshmukh said; you pay higher prices for foreign cotton, why can't you pay a similar price for Indian cotton?

Dr. P. S. Deshmukh: I said higher prices.

Shri Biswanath Das: Yes; you said higher prices. If the Tatas come today and say, you pay higher prices for foreign iron, why can't you pay us a higher price. I would ask, is that the reason why I have given protection to the industry in all stages? I have made a sacrifice; is it for nothing that I made the sacrifice? The country has made a great sacrifice for the protection of iron, sugar, textiles, and so on and so forth. Sacrifice must have this corresponding benefit. Therefore, I claim that neither the Tatas, nor the cotton producers nor even the primary producers of cotton could come up with the claim on this ground. Of course, I agree if economic grounds warrant that, certainly the agriculturists must have...

Prof. N. G. Ranga: It is only on that ground that we wanted.

Dr. P. S. Deshmukh: So did I; that was the chief ground.

Shri Biswanath Das: I claim that the consumer should be saved from the greed of three sets of people: the manufacturer, the businessman, and if need be, even the primary producer. The consumer has to be protected and if you

don't do it, bear in mind that you will have to raise the pay of all your officials as also the wages of labour. No country can tolerate the present conditions, much less could you keep the peace fairly longer. Under these circumstances I appeal again to my friend the hon. Dr. Mookerjee to use these high and responsible powers to his utmost ability so as to bring down the prices and also develop production and manufacture. Food and clothing are the two primary needs of man. If these are denied, the whole thing reduces itself to nothing, your Constitution however good it might be reduces itself to a mere scrap of paper and your Fundamental Rights are nothing absolutely to an ordinary commoner. Therefore I appeal to you to use these powers on these counts. I come from a province which produces only rice. My hon. friend who hailed from C.P. and Berar as also from other provinces which have a good-fortune or misfortune of having food-surpluses, they have a claim, I think, to ask the Government as also this Legislature through you to say what sin have they committed for taking to food production if representatives representing areas of commercial crops claim higher prices? That is not fair; nor is it desirable from the higher economy of the country. Therefore I plead with all my friends not to plead for a very unfortunate cause.

Pandit Thakur Das Bhargava: Fact is the land is diverted from food to cash crops.

Shri Biswanath Das: That is because the agriculturist has to weigh between prices. I know oilseeds pay higher prices than food crops. That is one of the reasons why there is a tendency to divert. Is it justifiable for the primary cotton grower, if on a comparison of prices of 1939 to to-day's it is seen that the price of foodstuffs has increased by about 200 per cent. while the price of cotton is 300 per cent. or even more? If that is to be seen, I don't think it comes with good grace as a reasonable argument for my friends. Therefore there should be a fair adjustment and I would appeal and argue with Government that a proper machinery should be set up in this regard so that the economy of the country is not disturbed. You can't have both ways. You want that Government should take up to crop planning and you refuse control. Therefore give them power and if they don't do it, say good-bye. That is the position which I am prepared to take always. There is a limit to our sacrifice. Yesterday I was arguing in this House about the location of sugar industry in Bihar and U.P. where there is less possibility of having the output which the coastal districts could have. It took my breath away to hear that sugar prices in provinces of U.P. and Bihar are announced to be sold lower than in other provinces. I would like to know from the hon. Minister of Industries and Supplies whether there is also such a move in this regard viz., in cotton, that the cotton textiles prices in the producing provinces will be lower than in other provinces. That is a pernicious way because that calls upon other provinces to sacrifice—to put themselves not only to double sacrifice but also to eternal sacrifice, which is unfair. Therefore I should like to have a reply from the hon. Minister.

The Honourable Dr. Syama Prasad Mookerjee: There is no such proposal.

Shri Biswanath Das: I am glad to hear that. Though it is not quite relevant here, I strongly protest that the sale price of sugar in Bihar and U.P. should be lower than the prices in other provinces.

Prof. Shibban Lal Saxena: Not so.

Shri Biswanath Das: I will show you from published accounts. There is one more point. A lot of things have been said that we are producing short staple cotton, and therefore it is not useful for our manufacturers. I come from an area where hand-spinning has developed to a marvellous extent. We spin from our ordinary cotton to the extent of 200 counts. The late lamented

[Shri Biswanath Das]

Mahadeo Desai when he visited my district fell prostrate at the feet of an old lady who was spinning to a count of 200 and all this has been done with our country cotton. I have a right to expect from our experts as to how this is possible while the same could not be done in mills. Therefore the experts and scientists have a duty in this regard. You have the East India Cotton Association. You have the Cotton Committee and added to it the I.C.A.R. and the Pusa Institute. What are these institutions doing and why not research be taken up in this regard? How could the ordinary ladies in their village homes spin to the extent of 200 counts with ordinary country-made cotton. Therefore research is called for in this regard. With this I congratulate my friend and I beg of him to realize the heavy responsibility that we have placed in his hands.

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

"That question be now put."

Mr. Deputy-Speaker: The question is:

"That question be now put."

The motion was adopted.

The Honourable Dr. Syama Prasad Mookerjee: Sir, I don't want to make a long speech in reply to the debate. No new point has been raised. My friend Chandrabir Ranbir Singh misunderstood my remarks altogether. Obviously no Government can ignore the legitimate interests of the Agriculturists but while fixing prices, Government have to bear in mind the interests of all the parties involved. Agriculturists are themselves consumers. Consumers are not outside the realm of agriculturists and they have to be supplied with essential commodities which in their turn must be made available to them at reasonable prices. Of course, one defect in our present system, I must frankly recognize, is the absence of statistical data which would enable us to appreciate exactly what the cost of agricultural produce is. So far as cost of production of manufactured goods is concerned, certain investigation has been made but so far as agricultural products are concerned, no such investigation on a wide scale has yet been made and unless the defect is removed, it will be extremely difficult for Government to fix prices for agricultural commodities which will be fair and equitable to the producers themselves. So far as the desirability of controlling *kapas* is concerned, a number of suggestions have been made here and Government will bear them in mind in considering this matter at a later stage. I expect a conference will have to be called which will be representative of all the interests involved, and if at all it is found necessary to control *kapas*, only then will government undertake this responsibility.

Lastly, my friend Mr. Biswanath Das asked me to admit that the textile control had completely failed. I am afraid I cannot oblige him. I feel that the textile control has not failed, and if we survey what we have been able to do and compare things after the control began with what existed before, then it will be seen that we have brought down the prices of textile goods. During the de-control period prices rose to between 50 to 150 per cent. and now the prices have been considerably brought down. And now the position is such that in many places textile goods are available for sale at prices lower than the stamped prices. Of course, as I said in the morning, the only way we can make textile goods available at cheap rates will be dependent on the availability of cotton, and unless we can increase our production of cotton we cannot expect to supply textile goods at reasonable rates.

Another thing which has happened during the last few weeks or rather during the past few months is the increased export of textile goods. We have been able to recapture a number of foreign markets, and I expect that in the course of this year we will be able to reach the figure of 800 million yards of export which means about 800 million yards out of about 4,000 million yards of mill made goods which we will produce. That will give us valuable foreign exchange which will certainly reduce our adverse balance of payment.

Mr. Deputy-Speaker: The question is.

"That the Bill be passed."

The motion was adopted.

RUBBER (PRODUCTION AND MARKETING) AMENDMENT BILL

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

"That the Bill further to amend the Rubber (Production and Marketing) Act, 1947, be taken into consideration."

Sir, this is a very short amendment and.....

Shri P. T. Chacko (Travancore State): But very serious.

The Honourable Dr. Syama Prasad Mookerjee: The Bill provides to delete a sub-clause which now enables the producers of rubber to sell rubber to persons who may not have any license at all. Now, the result of this has been that quite a substantial production of rubber which is now produced is being sold to unlicensed dealers. The matter was considered by the Rubber Board, and we consulted the Provincial and State Governments concerned, and it was their unanimous view that this clause should be deleted. In future if the rubber producers desire to sell, they should be allowed to sell only to licensed dealers. What is proposed to do is to issue general licenses so that the producers, if they desire to sell their products directly would be entitled to do so without much inconvenience. The matter has been considered by all the interests involved, the producers, the consumers and the Provincial and State Governments concerned and it is their unanimous desire that this amendment is necessary. I therefore move that this Bill be taken into consideration.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Rubber (Production and Marketing) Act, 1947, be taken into consideration."

There is an amendment by Prof. Saksena for reference of the Bill to a select committee.

Prof. Shibban Lal Saksena (U.P.: General): Through my amendment I only wanted to invite the attention of the hon. Minister to one aspect of this question. He has called it a small amendment, and the purpose he has in view is laudable, namely, that the bigger estate owners should not be permitted to defeat the purpose of this control. But I wanted to say that the small growers of rubber are also affected by this and its effect on them should also be considered. So I want this Bill to be properly considered in a select committee which may go into all the details of it and see that the small growers are not badly affected. Hence I move:

"That the Bill be referred to a Select Committee consisting of the Honourable Dr. Syama Prasad Mookerjee, Sjt. Kuladhar Chaliha, Sjt. Rohini Kumar Chaudhuri, Shri Lakshminarayan Sahu, Shri M. Ananthasayanam Ayyangar, Prof. N. G. Ranga, Dr. P. S. Deshmukh, Shri B. P. Jhunjhunwala, Shri P. T. Chacko and the Mover."

[Prof. Shibban Lal Saksena]

I only want to see that the amendment is effected in such a manner that the small growers are not affected. I am in full sympathy with the object that the large estates should not be allowed to defeat the object, but the small growers must be saved.

Mr. Deputy-Speaker: Such a small Bill, does it require reference to a select committee?

The Honourable Dr. Syama Prasad Mookerjee: The very point which Prof. Shibbanlal Saksena has raised was actually taken into consideration and we made a reference to the Government of Madras and to the Travancore and Cochin Governments, and the proposal has been agreed to. I can assure Prof. Saksena that the case of the small producers will be considered by Government in the proper way and it is not necessary to refer the Bill to a select committee at all. This is a small measure, and we can accept it here and now.

Mr. Deputy-Speaker: Is the hon. Member prepared to accept this assurance, or does he want to press his amendment?

Prof. Shibban Lal Saksena: I am not pressing it.

Shri H. V. Kamath (C.P. and Berar: General): Sir, the necessity for the measure brought before the House this afternoon by the hon. Minister of Industry and Supply cannot be over estimated. With the rapid development of our mechanised and motor industry, the bicycle and automobile industry, the electrical industry and the surgical appliances manufacturing industry, rubber is fast acquiring a great importance in our national economy. It is, therefore, essential that the buying and selling transactions of this commodity should be under control of a central organisation, and in this case there is the Indian Rubber Board which is already functioning as such. I feel that it would be of interest to know from the hon. Minister how far we are to-day dependent upon foreign countries for the supply of rubber for our industrial purposes, how far we are dependent upon the dollar areas, and how far upon the sterling areas and the soft currency areas, and what our annual production of rubber to-day is and what is our total requirement for our growing automobile and mechanised industries. And further I would like to know whether any attempt is being made to increase the production of rubber in our country which will be very essential in the near future. We would also like to know what experiments are being made to the manufacture synthetic rubber in our country.

Mr. Deputy-Speaker: All these points are very interesting but the scope of this Bill is very limited. Under the existing law nobody is allowed to sell rubber except under a license but there is a proviso which says that if the producer himself wants to sell he need not have any licence. In the experience of Government this distinction between sale by producer and any other person is creating difficulties and therefore they say that all persons must sell under a licence. The hon. Minister gave an assurance to Prof. Shibbanlal Saksena that he would avoid hardships in the case of the smaller producers. I do not think the hon. Minister is ready with all the facts and figures that the hon. Member wants.

The Honourable Dr. Syama Prasad Mookerjee: Yes, Sir, I am ready.

Mr. Deputy-Speaker: But it is not within the scope of the Bill at present. The hon. Member must confine himself to the scope of the Bill.

Shri H. V. Kamath: That is exactly the point. The point I have in mind has arisen out of the measure which is before the House. The hon. Minister stated in his introductory speech that there have been some unlicensed transactions in this commodity and hence it is quite likely that there may have been some waste of this essential commodity so far as national purposes are concerned. That is why I have raised the point which I did a little while ago. We want that this commodity should be conserved and not wasted in any way either in buying or selling in an unlicensed or any other unrestricted manner. This commodity has to be conserved and developed to its highest potential. I was very glad to see that the hon. Minister interrupted you, Sir, to say that he has got the facts and figures ready. It would be very interesting to know what the figures are with regard to the various categories I mentioned a little while ago.

Lastly I would say that the Statement of Objects and Reasons of this Bill makes it clear that the proviso to the existing section 14 exempts owners of rubber estates from the operation of that section in respect of rubber produced in their own estates. Within the last two or three years I do not know how many unlicensed transactions in buying and selling have taken place, how many such deals have been made by owners of large estates. It would be worthwhile to know from the Minister how many such illicit or rather unlicensed transactions have taken place.....

The Honourable Dr. Syama Prasad Mookerjee: They were not illegal under the present law.

Shri H. V. Kamath: They are perfectly legal under the present law, but they will soon become illegal under the law contemplated. So it would be interesting to know how many such transactions have taken place during the last two or three years and whether any national waste has been caused thereby.

Sir, I welcome this measure and support the Bill moved by the hon. Minister.

Shri P. T. Chacko: Sir, though this is a small measure, yet it is one which vitally affects the interests of the small growers.....

Mr. Deputy-Speaker: The hon. Minister has just given an assurance that in respect of small producers he will give them free licence.

Shri P. T. Chacko: The hon. Minister is carried away by the recommendation of the Rubber Board which consists of only large estate owners and on which the small producers are not represented.

Mr. Deputy-Speaker: The small producers will get free licence.

Sjt. Kuladhar Chaliha (Assam: General): Under what provision?

The Honourable Dr. Syama Prasad Mookerjee: They will be given free licence under the present Bill.

Shri P. T. Chacko: Section 14 prohibits the buying and selling and under the proviso the selling of rubber by owners alone is legalised and not the buying of it. Under the present Act even rubber owners can sell their produce only to licensed people and not to others. Eighty per cent. of the rubber produced in India is produced in Travancore and out of that 40 per cent. is produced by very small growers. The word used in the Statement of Objects and Reasons is "estate owners". That may give an idea that the owners of rubber are owners of extensive plantations. But 40 per cent. of the owners are owners of very small areas, some holding 20 or 30 cents and some owning only 20 or 25 trees. People cultivate rubber in small farms along with pepper, cocoanut,

[Shri P. J. Chacko]

arecanut or other crops. As the Act stands now nobody can sell rubber to anybody except a licensed dealer and nobody can sell rubber without a licence excepting the producers themselves. What difference will this amendment make in the actual control of the dealings, I ask? The only difference is that the small producers will have to take licence from the Rubber Board. Even now under section 14 licensed dealers can purchase rubber. By amending the present Act the position will be that these small producers will not be allowed to sell their rubber to anyone without a licence. After tapping the rubber there small producers may not have sufficient quantity of latex to coagulate it and they take the latex to dealers who deal in latex. Latex also is included in rubber under the definition in section 3. The small producer may not have a sufficient quantity to coagulate and to get out of it good rubber and so they sell the latex. By this amendment the small producer will not be allowed to do what they have been doing till now. Every owner must be a registered owner under section 10. Besides this registration they are now asked to pay a fee to take a licence for the sale of the small quantity of rubber or latex which they produce. As far as the actual control is concerned, the only difference will be that there will be licences for all these small estate owners. According to the present rules they will have to pay something to the Rubber Board to take a licence.

The whole difficulty comes in from the recommendation of the Indian Rubber Board, as I feel it, because the Indian Rubber Board is a body wherein the small producer is not represented. Therefore, in order that they may get more money, in order that their finances may be made all right they have recommended this amendment. The purpose of this Bill, according to me, is to give some more money to the Indian Rubber Board, and nothing more than that. And what more control can be effected by giving licence to these producers. The same people after taking the licences will be dealing in the same manner as they were dealing before. The only difference will be that the small producers will have licences. I cannot understand how Government can have more control by imposing licences on these small producers and asking them to pay a fee of Rs. 25 or 30 to the Indian Rubber Board. That is the only difference which this Bill makes if it is enacted into law. So I feel this amendment is unnecessary. I appeal to the hon. Minister to consider the position of the small producers, and, if this Bill should be enacted, I appeal to him that licences may be given to all these small producers free of any fees.

The Honourable Dr. Syama Prasad Mookerjee: Sir, I shall refer to the last speaker first. In fact the point which he raised I had mentioned previously. The cases of the small producers should be properly protected. But the very reason which he advanced namely that between 35 and 40 per cent. of the rubber to lay is being produced by this group of small producers weighed with Government in not excluding the small rubber producers from the scope of this clause. Otherwise we will not be able to regulate the transactions relating to 35 to 40 per cent. of the total rubber production in this country.

Shri P. T. Chacko: May I point out that they are all registered holders?

The Honourable Dr. Syama Prasad Mookerjee: Yes, I know. But so far as sales are concerned, as my hon. friend Mr. Kamath put it, unauthorised sales should be regulated. But I can certainly assure the hon. Member that Government will see to it that the interests of these small producers are not in any way jeopardised. It will be quite easy for us to allow them licences free of cost. And later on, if we find that their interests are being sacrificed, then we will be able, if necessary, to come forward before the House again and have some sort of special powers. I am also anxious that they are represented in some way on the Board itself. Of course we have now given

representation to the State Government concerned, and there being a popular government now in Travancore and Cochin, they are also quite alive to the need for protecting the interests of the small growers.

Now, in regard to the more important question asked by Mr. Kamath, I did not refer to it because I thought that it might not be quite relevant to the subject matter of this Bill. India is today producing about 16,000 tons on an average of raw rubber per year. Our manufacturers require nearly about 21,000 tons of raw rubber which means that we are short by about 5,000 tons per year. We are importing this from foreign countries. The unfortunate position today is that the price of Indian raw rubber is about 40 per cent. higher than the world price. The result of that has been that rubber goods manufactured in India which had a good export market have practically lost their export market, because goods which are manufactured with raw rubber priced at so high a rate cannot obviously sell in foreign countries. At the same time, if we allow a larger quantity of raw rubber to come into this country from foreign lands, then the interests of the rubber producers in this country will automatically suffer. Here again the only possible way out of it is to reduce the cost of production of raw rubber and to increase its production. I have got a scheme, which has been placed before me during the last few months, which involves expenses to the tune of Rs. eight crores, if India is to produce raw rubber of good quality in the course of the next fifteen years.

Shri H. V. Kamath: May I interrupt the hon. Minister? Are our imports from the dollar area or from the soft currency areas?

The Honourable Dr. Syama Prasad Mookerjee: It is not from the dollar area, it is from soft currency areas. But so far as rubber plantation is concerned, practically it will have to be replanted entirely if we desire to obtain satisfactory results. This is a matter which is now under investigation by Government.

So far as import and export are concerned, in regard to the manufacture of rubber goods we are practically self-sufficient. So far as tyres and tubes are concerned, practically imports of these are not allowed except in special cases. For instance the ceilings that have been fixed are these. From July to December 1949 from the dollar area we expect to import only Rs. 5 lakhs worth of tyres and tubes; from the U.K. not more than Rs. 20 lakhs worth of them. In regard to foot-wear we are not allowing any import at all. I have also got here the total figure for imports in 1949. For January to June the figures are: automobile tyres and tubes Rs. 2,45,000; bicycle tyres and tubes Rs. 8,000; foot-wear Rs. 11,000; and miscellaneous goods about Rs. 9,00,000. So far as export is concerned we have just allowed export and the quota recommended for the first half of 1949 comes to Nos. 1,73,926 for automobile tubes and tyres and Nos. 8,57,500 for bicycle tubes and tyres. That is what we are exporting. But so far as the future of the industry is concerned it depends on our ability to reduce the cost of production of raw rubber and to increase its production in the coming few years.

Shri H. V. Kamath: May I know if anything is being done about synthetic rubber?

The Honourable Dr. Syama Prasad Mookerjee: Nothing much.

Shri P. T. Chacko: May I know whether rubber is also exported from India?

The Honourable Dr. Syama Prasad Mookerjee: Practically nil.

Mr Deputy-Speaker: The question is:

"That the Bill further to amend the Rubber (Production and Marketing) Act, 1947, be taken into consideration."

The motion was adopted.

Mr. Deputy-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 Dr. Syama Prasad Mookerjee: Sir, I move:

"That the Bill be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

REQUISITIONED LAND (APPORTIONMENT OF COMPENSATION) BILL

The Honourable Sardar Baldev Singh (Minister of Defence): Sir, I beg to move:

"That the Bill to provide for the apportionment of compensation payable in respect of requisitioned land, be taken into consideration."

Sir, I need not take the time of the House in explaining the reasons for this Bill. They have been made clear in the Statement of Objects and Reasons enclosed with the Bill. Difficulty arose on account of a ruling given by the Calcutta High Court. To remedy that we had to promulgate an Ordinance. That Ordinance will lapse in the next month or so. The West

Bengal Government, amongst others, pointed out that if this Ordinance is not replaced by an Act there will be enormous difficulty and that is the reason for bringing forward this Bill.

Sir, the Bill is very simple and I hope the House will agree to it.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to provide for the apportionment of compensation payable in respect of requisitioned land, be taken into consideration."

Prof. Shibban Lal Saksena (U.P.: General): Sir, I have got an amendment to refer it to a Select Committee.

Mr. Deputy-Speaker: But the hon. Member has not given names so far. I am not going to allow this amendment.

Prof. Shibban Lal Saksena: I can give the names now.

Mr. Deputy-Speaker: That is not the practice. I don't think the hon. Member is serious about pressing this motion for Select Committee. I am only appealing to him. If hon. Members are interested in quickly passing this Bill which seeks to correct an error of distribution of compensation pointed out by the High Court and which tries to set right a lacuna, then we must not take much time over it. If, however, they think they must have more time over this then we have to adjourn.

Some Honourable Members: We will take it up on Monday.

Shri Mahavir Tyagi (U.P.: General): Sir, I have only a few remarks to make. The Bill is very good and I support it. But while supporting it I want to bring to the notice of the hon. Minister of Defence that possession of land has been taken in many cases by the military without giving any compensation whatsoever. The Bill deals with distribution of compensation between two shareholders. Compensation like that can be distributed only when the Ministry makes its mind about granting of compensation itself. The position is that no compensation has been given. I have got cases like that with me. Recently when I came here I came across the case of a poor man having a little hut through which a road was taken connecting Sahranpur Road

to Premnagar. The military went there, uprooted the house although the man was not there, his wife and others were thrown out of the house and his luggage also was thrown out. The man came weeping to me in the night. I have got his letter in my hand now. Sir, it is only for this purpose that I am speaking. I am sore on this point. I can't allow any Army to handle any private citizen in that way. The Army is meant to give protection to people and not to throw them out of their houses. If I had my way, I would have shot the Army officer if he behaved in that fashion. I want to bring it to the notice of the hon. the Defence Minister that if the military goes on behaving in that bad manner and if officers go on acting like that, forcibly driving people out of their houses and taking possession of their houses without giving them any compensation or any alternative accommodation, I say this is a thing which cannot be tolerated. Bapu wrote an article in 1942 when boats were taken possession of in East Bengal and houses also were taken possession of. He insisted that whatever be the need of the country, the poor man must first have his alternative accommodation and then alone can his house be touched. If people are to be thrown out of their houses like that and compensation is not given as you used to do in the good old days, I am afraid this thing will be intolerable. I don't want to take more time of the House because houses are now being taken and I don't know if the military can come and take possession of this House and we may have to wait for compensation.

Sir, another case is that of a piece of land taken in my own constituency. It was the best land in the whole of my Province; it produced *basumati* the most precious rice of the land. That land was taken possession of in 1943 and is still in the possession of the Army. Some of this land is also being used for agricultural purposes and has been let out by the Army on profit to other tenants than the original owners. I have been struggling for this case for years together, even when I was not a Member of this House nor a member of the Defence Committee, but I confess my failure. I could not help those tenants of my constituency. The land is neither being returned to them nor is it used by the Army. An order was received from the Land Hiring and Disposals Service, Headquarters Sub Area, Dehra Dun wherein it was mentioned that 140 acres of land (out of 288 acres) at Kandli, Bilaspur, has been taken possession of and will be available for de-requisitioning at the site on Monday. That was the letter received, dated 24th March, 1945, but the land has so far not been returned to those persons. They are being given compensation only at the rate of Rs. 2 per *biga* of that excellent land.

Sir, I want an assurance from the hon. the Defence Minister. Let him first defend the poor man in the country; if he fails to defend the poor man living in the hut, I cannot trust him to defend the borders of India. Let him defend his own people against his own Army. I submit the Defence Ministry has a right to requisition land because it is for the cause of the country and for the cause of the safety of the country, but he must see that the Ministry and the Government do not do it at the cost of the individual citizen. I hope the Ministry will take notice of a little bit of my temper in the matter and will kindly see to it. Otherwise, I support the motion.

Mr. Deputy-Speaker: I see several hon. Members wanting to speak. How long will Mr. Chaudhuri want to speak?

Sjt. Rohini Kumar Chaudhuri (Assam: General): Sir, I want 15 minutes.

Mr. Deputy-Speaker: This seems to be a controversial matter. So, we shall now adjourn.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Monday, the 5th December, 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES

(PART II — PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Monday, 5th December, 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.

QUESTION AND ANSWERS

(See Part I)

11.45 A.M.

PAPERS LAID ON THE TABLE

MINERAL CONCESSION RULES, 1949, UNDER MINES AND MINERALS (REGULATION AND DEVELOPMENT) ACT, 1948.

The Honourable Shri N. V. Gadgil (Minister of Works, Mines and Power): Sir, I beg to lay on the table a copy of the Mineral Concession Rules, 1949, in accordance with Section 10 of the Mines and Minerals (Regulation and Development) Act, 1948. [*Copy placed in the Library. See No. IV-R.102(26).*]

TRANSPORT SERVICES COMPENSATION RULES, 1949, UNDER ROAD TRANSPORT CORPORATION ACT, 1948.

The Honourable Shri N. Gopalaswami Ayyangar (Minister of Transport and Railways): Sir, I beg to lay on the table a copy of the Transport Services Compensation Rules, 1949, framed under Section 7 of the Road Transport Corporation Act, 1948. [*Copy placed in the Library. See No. IV-N.6(13).*]

ELECTION TO STANDING COMMITTEE FOR DEPARTMENT OF
SCIENTIFIC RESEARCH

Mr. Speaker: I have to inform the Assembly that up to 12 noon on Saturday, the 3rd December, 1949, the time fixed for receiving nominations for the purpose of election of one member to the Standing Committee for the Department of Scientific Research in the vacancy caused by the resignation of Shri E. John Phillipose only one nomination was received. As there is only one candidate for the vacancy I declare Shrimati Dakshayani Velayudhan to be duly elected to the Committee.

ELECTRICITY (SUPPLY) AMENDMENT BILL

The Honourable Shri N. V. Gadgil (Minister of Works, Mines and Power): Sir, I beg to move for leave to introduce a Bill to amend the Electricity (Supply) Act, 1948.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to amend the Electricity (Supply) Act, 1948"

The motion was adopted.

The Honourable Shri N. V. Gadgil: Sir, I introduce the Bill.

MERGED STATES (LAWS) BILL

The Honourable Dr. B. R. Ambedkar (Minister of Law): Sir, I move for leave to introduce a Bill to extend certain laws to certain areas administered as parts of Governors' Provinces or as Chief Commissioners' Provinces.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to extend certain laws to certain areas administered as parts of Governors' Provinces or as Chief Commissioners' Provinces."

The motion was adopted.

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

REQUISITIONED LAND (APPORTIONMENT OF COMPENSATION) BILL

Mr. Speaker: The House will now proceed with the further consideration of the motion moved by the hon. Sardar Baldev Singh.

"That the Bill to provide for the apportionment of compensation payable in respect of requisitioned land, be taken into consideration."

Sjt. Rohini Kumar Chaudhuri (Assam: General): Sir, I think we should all welcome this piece of legislation which has been necessitated on account of certain judicial decisions. I was, however, taken aback by the speech which my hon. friend Mr. Tyagi delivered on the subject. He referred to certain requisitions which have still been going on and he also referred to the year 1942. We remember with poignant feelings the events which took place in the year 1942 and up to 1945 in the Province of Assam which had to bear the brunt of the entire war activity. At that time any decent house, no matter whether it was required for the habitation of the owners, no matter whether the owner had any interest in it or not, used to be requisitioned for the benefit of the war personnel. Sometimes the house was acquired for W.A.C., sometimes it was acquired for W.R.N.S. and others. It didn't strike the Army authorities for a moment at the time as to where the inmates of these houses would go or how they would leave, not to speak of the fact that compensation was held up for months and years. Even today there are some cases where compensation has not been paid. I am sure even if we are faced with a war in the near future we shall not have the same experience as we had in the last war, but nevertheless a point has been raised by my hon. friend Mr. Tyagi and we are to consider whether in the present state of the country it is necessary to have any further legislation on the subject of requisition. Why is it necessary today to continue the requisition of property? I certainly don't object to this piece of legislation because if the requisition goes on, it is really equitable that we adopt this law—there is no doubt about it. But the point which has been raised by my hon. friend Mr. Tyagi leads one to consider and ponder for a moment why it is necessary to carry on this requisition any longer. Why is it not possible for the Army authorities to acquire land wherever they want and pay for it reasonably? Why is it not possible for the Army authorities to take resort to the ordinary Land Acquisition Act and have the land acquired through that means, in which case the person who is affected—the

owner of the land—has much greater facilities for getting proper compensation and for moving the proper authorities to get that compensation? Why have this requisitioning method which was, as far as I know, only resorted to during the time of the war under the Defence of the Realm Act in England and under the Defence of India Act in India? I can quite understand that it is necessary to have recourse to such methods during the war, but now after five years of the termination of the war, why should you think of requisition? Why should you think of legislation on these matters? I should rather have expected the hon. Minister in charge to have come forward with a Bill to repeal all the laws which authorise requisition rather than bring further legislation at requisitioning.

Coming to the present Bill, I desire to draw the attention of the hon. Minister to clause 3. That clause lays down that—

"It shall be lawful...to apportion by his award the compensation payable in respect of the requisitioning or, as the case may be, acquisition of the land among the persons interested."

Now, Sir, in this clause there is no reference to any application to be made by the person interested. In some cases it is quite possible that the compensation would be apportioned without any application from the interested persons because in some cases it is quite apparent from the record which will be put up, namely the lease; where there are names of more than one person, all the persons whose names appear in the list will be apportioned compensation. But there may still be persons whose names do not appear either in the municipal assessment list or in the lease of the land itself. In such cases also, there is no reference made here to any obligation imposed on the person interested to make an application for compensation. Compensation can be paid, if it appears in the course of an inquiry which is made on this subject that certain persons are interested in the land, whether or not any application has been made by the person interested. I consider that is quite reasonable. I only wish that in sub-clause (2) of clause 3 a similar provision should be made, that is to say the arbitrator may on his own motion or upon the application of the person interested apportion the compensation.

What should prevent the parties getting compensation in those cases which were enquired into before September 1949 and where the arbitrator had come to know of the persons concerned? It is only the legal interpretation of this clause of the existing Act which has prevented the parties from getting compensation on account of the decision of the High Court. But where the arbitrator knows the persons who are interested in the compensation, he should be allowed to apportion compensation without waiting for any application from the parties concerned.

Sir, another point which I want to bring to the notice of the House is that in every case of apportionment of compensation an appeal must lie. The reservation which is made in sub-clause (3) should be deleted, in my opinion. Under the existing law there may be appeals in some cases, there may not be appeal in some cases. But what I mean to say is that when an arbitrator takes upon himself the responsibility of apportioning compensation, it gives rise to a dispute between two parties, and the aggrieved party should necessarily have the right of appeal.

Subject to these remarks which I have made, I wholeheartedly support the motion.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I have only one point to mention. I understand that in the Panagar area of the district of Burdwan a vast acreage (as much as 15,000 acres) of land was requisitioned for military purposes. These lands, I suppose, are no longer needed by the military. They

* [Mr. Naziruddin Ahmad]

should, I submit, be given back to the tenants or to those persons from whom they were taken over, so that the land may be utilised for food grain cultivation. That is the only simple suggestion I wish to make.

Shri Prabhu Dayal Himatsingka (West Bengal: General): Sir, I also want to draw the attention of the hon. Minister to a number of hard cases of requisitioning of properties in Ranchi. These houses were requisitioned long before from persons who had built them for their own use. I would suggest that if the army are in need of houses Government should take early steps to build alternative accommodation for their personnel. They should not deprive the owners of their houses, simply because they are good houses and the officers occupying them have taken a fancy for them. I hope that these cases will be taken fully into consideration, and the houses will be released as soon as possible, so that this scandalous state of affairs may not continue.

Pandit Balkrishna Sharma (U.P.: General): Sir, I beg to offer my support to the Bill which is before the House. My friend Shri Rohini Kumar Chaudhuri made reference to a speech of my friend Pandit Mahavir 12 Noon Tyagi in which he brought certain instances of persons who have suffered by this law—the law known as the Act XVII of 1947 and Act XXXV of 1939. The question has been raised as to whether at present it is necessary for the Central Government to have any such law on the Statute Book. My friend Shri Rohini Kumar Chaudhuri wants that the acquisition and the requisitioning of land should be left to be executed under the ordinary law and that no special legislation need be put on the Statute Book.

So far as the fundamentals of this question go, Sir, I do not think there can be any difference of opinion in regard to the view held by men of the calibre of my friend Mr. Chaudhuri and Pandit Mahavir Tyagi. The only question before the House is whether, under the present circumstances, we can permit such a procedure to be taken under the ordinary law or whether such a procedure requires a special enactment to be made by us. My view has been that as time passes it becomes necessary for the Central Government—or any Government for the matter of that—to impinge upon what we may call the personal liberties of its citizens. However much we may dislike it, we cannot get out of it. Individual liberty has always to be subordinated to the greater interests of society.

Sjt. Kuladhar Chaliha (Assam: General): But the emergency is long past now.

Mr. Speaker: I am afraid the scope of the discussion is being unnecessarily widened by going into the general question of requisitioning. As I see it, the purpose of the present Bill is only to remove a defect. The power of requisitioning has already been there. The question that we are now considering is whether we should amend the provision so as to allow the arbitrator to apportion compensation. That is the only limited question for discussion. If we go into the general question of the desirability or otherwise of requisitioning, or of the evils that follow from requisitioning, I think the discussion will be a rambling and an endless one.

Pandit Balkrishna Sharma: I would not have gone into this question at all had it not been raised on the floor of the House and I think it would not be desirable that such a view should go unchallenged in the House. It is for that reason that I wanted to point out that however desirable it might appear to protect individual liberty against encroachment by the State, yet there are times when it becomes almost inevitable that the State should take steps to help the society and not permit the individual liberty to come in the way of

the smooth working of orderly Government. The question is whether emergencies are not in the habit of raising the heads from time to time. If there is no emergency today, it may as well happen tomorrow. You cannot say that we might wait till tomorrow for the legislation to be put on the Statute Book. It is elementary prudence that we should provide for it in advance.

Sjt. Kuladhar Chaliha: What about the Land Acquisition Act?

Mr. Speaker: I am afraid I cannot allow this discussion to go on. I find there is again an attempt to go into the general question. The hon. Member has sufficiently emphasised the point that sometimes it becomes necessary for the State to take steps and interfere with personal liberty and property. He might proceed straight to the particular question so far as the Bill is concerned.

Pandit Balkrishna Sharma: The particular question which is before the House is that in a recent judgment the Calcutta High Court has held that an arbitrator appointed under clause (b) of section 19 of the Defence of India Act has no power to entertain any reference requiring apportionment of compensation between parties having different interests in the land. On account of this decision of the Calcutta High Court that the Arbitrator can only determine the compensation, but he cannot apportion the compensation to different parties who are interested in a particular piece of land acquired by the State or requisition by the State this Bill has been brought forward. My only suggestion regarding this will be something on these lines. If you read clause (a) of section 2, you will find the language of the definition is a little faulty.

This is the clause:

"the expression 'persons interested', in relation to any requisitioned land, includes all persons claiming an interest in the compensation to be paid on account of the requisitioning or the acquisition of the requisitioned land under the provision of....."

Here "on account of requisitioning" stands loose. It requires something to govern it. I would therefore suggest the insertion of the words "of land" which will make it quite clear. It should be "requisitioning of land" or "acquisition of the requisitioned land".

Then, I should like to point out that in clause (2) of Section 3 it is said that Government "may" appoint an arbitrator. My suggestion is that it should not be left to the choice of the Government by whom compensation is payable to appoint an arbitrator. If you are providing for certain lapses, then you must make it obligatory upon the provincial government or the Central Government, whoever may be in a position to pay the compensation, to appoint an arbitrator if any of the persons interested make a request to that effect. I think therefore that this word "may" should be replaced by the word "shall".

The other thing that I want to point out is that by saying "before the 13th of September 1949" we are almost circumscribing ourselves. If that particular sentence is removed, it will make no very great difference. "Where an arbitrator appointed in pursuance of this section.....has not made any apportioning", in that case, the parties will be free to come before the Government concerned with the request that Government may appoint that arbitrator or another arbitrator and Government will always grant that request. So this expression "before the 13th day of September 1949" should be deleted.

If the House adopts this Bill with these modifications, it will greatly facilitate such of the cases as have not been disposed of after the decision of the Calcutta High Court. I wholeheartedly support the Bill.

The Honourable Sardar Baldev Singh (Minister of Defence): I have very few remarks to offer. The scope of the Bill is very limited and all the members have given support to it. There were one or two points raised which were quite outside the scope of the Bill, and with your permission I would like to reply to that criticism.

First, my hon. friend Mr. Tyagi raised a question that is not really within the scope of this Bill. I may inform him that the procedure that is laid down for requisitioning the land does not rest with the Army. The Army Officer does not go there to eject the occupants. The procedure is first initiated by the civil authorities and compensation is also fixed by the civil authorities according to certain rules. It is only when the civil authorities have gone through this procedure and have laid down a clear line that they ask us to take possession of the land. About the particular case which he mentioned, it is difficult for me to say, but I am quite prepared to go into that question and enquire where the difficulty lies.

Shri Mahavir Tyagi (U.P.: General): May I know if the land is handed over to the Army only after due compensation or alternative accommodation is given to the previous occupant of the land?

The Honourable Sardar Baldev Singh: I was coming to that. We only go to the land for occupying it when all the formalities have been completed. If after the land has been requisitioned, somebody goes and forcibly occupies some part of it, then of course the military officers have to go and look into it.

Shri Ajit Prasad Jain (U.P.: General): May I know whether it is not a fact that the land is occupied first and the question of compensation is decided afterwards?

The Honourable Sardar Baldev Singh: The question of compensation cannot be decided before possession is taken. The compensation question is decided afterwards.

Shri Mahavir Tyagi: That is the point on which we differ.

The Honourable Sardar Baldev Singh: There may be a difference of opinion, but I was only replying to the criticism of my hon. friend. I quite agree with him that where lands are requisitioned, naturally hardship is caused to the occupants and I fully sympathise with them. But hon. Members should realise that it is not a very pleasant duty to requisition the lands of poor people. We have got to do it for Government purposes and we try our best to avoid the inconvenience caused to these poor people as much as possible.

The second point was raised by my hon. friend Mr. Naziruddin Ahmad about the Panagarh Ordnance Depot. It is true that we have requisitioned a large plot of land there, but recently when I visited that Depot, I went into this question, which is now being examined. Our intention is to release all the land that has been requisitioned, but there is one difficulty. On a part of the requisitioned land, we have got a marshalling yard. It is very difficult for us to release that part of the land. We are examining whether it is possible for us to release some of the acquired lands in place of the requisitioned land. That question has now been taken in hand and I hope that in the near future we will be able to release all the requisitioned land and if we cannot release a part of the requisitioned land, some of the acquired lands will be released in its place.

Sgt. Rohini Kumar Chaudhuri: What is the necessity for continuing this emergency legislation at this time? That is the point on which we are speaking.

Mr. Speaker: As I pointed out, this question is beyond the scope of the present Bill. The present Bill proceeds on the assumption that the Requisition Act continues.

The Honourable Sardar Baldev Singh: I do not think it is necessary for me to take the time of the House on this matter. There are some amendments which seem to be acceptable, whereas there are others which it would be difficult for me to accept. I do not propose to deal with them now. They can be taken up when the Bill is taken up clause by clause.

Mr. Speaker: The question is:

"That the Bill to provide for the apportionment of compensation payable in respect of requisitioned land, be taken into consideration."

The motion was adopted.

Mr. Speaker: We will now consider the Bill clause by clause.

Pandit Balkrishna Sharma: Sir, I have got an amendment to clause 2.

Mr. Speaker: The hon. Member has not given due notice of the amendment. I just received the amendment. Unless it is an agreed amendment, I do not propose to waive notice. His amendment to this clause is for adding the words 'of lands'. It all depends upon the view which the hon. Minister is taking. I have no opinion to give as to the utility of the amendment.

The Honourable Sardar Baldev Singh: I received a copy of the amendment a few minutes ago. It is very difficult to accept it. But I can assure the hon. Member that his amendment will serve no purpose. If the wording in the clause is allowed to stand as it is, it will be perfectly all right. I have consulted the Law Minister on the subject.

Pandit Balkrishna Sharma: I do not move it, Sir.

Mr. Speaker: Then I put the clause to the House.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Pandit Balkrishna Sharma: There is an amendment of mine to clause 3.

Mr. Speaker: Similar amendments have been given notice of, by Messrs. Chaliha and Lakshminarayan Sahu. So the hon. Member's notice need not be taken into consideration.

As regards the new amendment for deleting the words 'before the 13th day of September 1949'—is that the date of the Ordinance?

The Honourable Sardar Baldev Singh: That is the date. There was no difficulty before that. If we omit that, then it will give rise to all kinds of difficulties.

Mr. Speaker: That explains the position.

Pandit Balkrishna Sharma: All right, Sir.

Sgt. Kuladhar Chaliha: I move:

"That in sub-clause (2) of Clause 3 of the Bill, for the word 'may' occurring in line five the word 'shall' be substituted."

May I move the next one also, because it is consequential?

Mr. Speaker: Yes.

Sjt. Kuladhar Chaliha: I move:

"That in sub-clause (2) of Clause (3) of the Bill, after the words 'upon the application of any person interested' occurring in line five, the words and figures 'not later than 30 days after the receipt of the application' be inserted."

My whole object is that payment of compensation should be made quickly. It is not paid now for more than eight or nine years. The decision of the Calcutta High Court has brought in further difficulty. So I suggest that the Government 'shall' appoint an arbitrator and not leave it to their discretion. The appointment itself should be made within thirty days after the receipt of the application. These matters should not be allowed to be delayed unduly long in Secretariat offices. In legal phraseology 'may' sometimes means 'must' but not always. In Assam there are cases pending final disposal for several years. Hence my amendments which I commend to the House for acceptance.

Mr. Speaker: Is the first amendment acceptable to the hon. Minister?

The Honourable Sardar Baldev Singh: My difficulty is that if 'shall' is substituted it would make the appointment compulsory. I am advised by the Law Ministry that 'may' may be allowed to remain. As the object of the hon. Member in moving this amendment is to avoid delays, I can assure him that if 'may' is allowed to stand as it is, his object will be fulfilled. Here 'may' has got practically the same meaning as 'shall'. If I accept his amendment, the result will be so many complaints, frivolous complaints I mean and it will mean that instead of expediting the matter, it will tend to further delays. That is my objection to the first amendment.

As regards the second amendment, the Mover has limited the period to thirty days. There may be cases which may have to take more than thirty days.

Sjt. Kuladhar Chaliha: Then make it forty or fifty days?

The Honourable Sardar Baldev Singh: It will work to the disadvantage of the claimants and it will be no use to them.

Mr. Speaker: I was just considering from another point of view. The wording here is 'upon the application of any person interested' and, 'the person interested' is defined as 'all persons claiming interest in the compensation to be paid on account of requisitioning or acquisition'. To me it appears that, it is just possible that some persons who were not originally on the record and parties to arbitration may come forward and claim compensation. That will be a difficulty if arbitration is made compulsory in every case. Therefore I think the word 'may' will avoid difficulties. Otherwise you will be adjudicating the claims of people who were never on the record. That is what I am feeling. I do not know whether I am clear to the hon. Member.

Sjt. Kuladhar Chaliha: I do not press the amendment.

Mr. Speaker: The hon. Minister does not accept the other amendment also. Does the hon. Member accept the assurance of the hon. Minister?

Sjt. Kuladhar Chaliha: I do not press this amendment also.

Mr. Speaker: That disposes of all the amendments.

Sjt. Rohini Kumar Chaudhuri: Sir, my amendment is not the same as this. With your permission I move:

"That in sub-clause (2) of clause 3 of the Bill, after the word 'may' occurring in line 5, the words 'on its own motion or' be inserted."

The amended clause would read thus:

"Where an arbitrator appointed in pursuance of either of the sections mentioned in clause (a) of section 2 has, before the 13th day of September, 1949, made an award determining, but not apportioning, the compensation payable, and such compensation has not been paid, the Government by whom such compensation is payable may 'on its own motion or' upon the application of any person interested....."

Mr. Speaker: Amendment moved:

"That in sub-clause (2) of clause 3 of the Bill, after the word 'may' occurring in line 5, the words 'on its own motion or' be inserted."

The Honourable Sardar Baldev Singh: If my hon. friend is prepared to accept this in an amended form, I am quite prepared to accept it. We may add 'either' before the words 'on its own motion or'.

Mr. Speaker: I am wondering how the Government can do this except on the initiative of someone else? I see it is a harmless one.

Shri M. Ananthasayanam Ayyangar (Madras: General): There is a point in Mr. Chaudhuri's amendment. In the earlier portion it is assumed that the amount is not paid, because there is somebody who has intimated his interest in the property. The Government have not paid to the original man, that person has already notified his interest, but may not pursue it.

Mr. Speaker: I will now put it to the House in the amended form.

The question is:

"That in sub-clause (2) of clause 3 of the Bill, after the word 'may' occurring in line 5, the words 'either on its own motion or' be inserted."

The motion was adopted.

Sjt. Rohini Kumar Chaudhuri: Sir, I beg to move:

"That in sub-clause (3) of clause 3 of the Bill, all the words occurring after the words, brackets and figure 'sub-section (2)', be omitted."

The object of my amendment is that any Order passed under this clause apportioning compensation should be appealable. I am not quite sure whether such an appeal is already provided for by the provisions of section 19 of the Defence of India Act. If it is provided, then these words are redundant and should be omitted. If an appeal is not provided for in section 19 of the Defence of India Act, I submit, Sir, that in view of the alteration made—the Defence of India Act did not contemplate any apportionment of compensation; it contemplated merely the granting of some compensation—now we are introducing apportionment of compensation in which the Government itself will not be interested but only the parties will be interested. When A, B, C and D have claimed compensation, apportionment is given only to A or only to A and B. Thus, here only the parties are interested. Government is not affected. In such cases, I think that an appeal must necessarily lie, and there must be provision for an appeal in such cases when the dispute is between private parties and not between Government on the one side and private parties on the other. So, I submit that, if an appeal is already provided for, these words are redundant. If an appeal is not provided for, then there must be provision for an appeal as the dispute is between private parties only.

The Honourable Sardar Baldev Singh: The words that my hon. friend wants to omit are really necessary. The difficulty is that, if I accept the amendment, it really goes beyond the scope of the original provision. This provision is contained in the original Ordinance and if it is deleted from here, then it will be going outside the scope of that Ordinance, and therefore it is not possible for me to accept this amendment. Then there is another difficulty also. In

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cases where no appeal lies against the original order, if I accept the amendment all kinds of difficulties will arise. This is my difficulty and I hope my hon. friend will realise it and will not press his amendment.

Mr. Speaker: How will it go beyond the scope of the original provision?

The Honourable Sardar Baldev Singh: Clause 3 says "if, and only if, an appeal would have laid against the original award under the provisions of section 19 of the Defence of India Act". If I accept this amendment and delete these words, all kinds of difficulties will arise. All I can say is that it will delay matters instead of facilitating them.

Mr. Speaker: Amendment moved:

"That in sub-clause (3) of clause 3 of the Bill, all the words occurring after the words, brackets and figure 'sub-section (2)', be omitted."

Shri M. Ananthasayanam Ayyangar: So far as this amendment is concerned, Government is not put to any prejudice. The Government takes the property and holds the money. The dispute is between only two rival claimants or more than two. Government will only be in the position of a caretaker or a Receiver and will hold the money in deposit. May be against the original award no appeal will lie, but here different considerations arise. The conflict is between various claimants. Therefore there is no harm in deleting these words. I hope the hon. Minister will accept it.

The Honourable Sardar Baldev Singh: This matter was examined by the Law Ministry and they say there will be difficulty. It is very difficult for me to say anything on this, but the advice given by the Law Ministry is that it will create no difficulties.

Mr. Naziruddin Ahmad: I think a right of appeal should be given in this case, Sir.

Mr. Speaker: The point seems to be this: I am not conversant with the provisions of section 19 of the Defence of India Act which allows these appeals; but the point here seems to be this that, if the matter is between the Government on the one hand and private parties on the other, the main question about the amount of compensation will be decided by the original reference and not the supplementary award. Now this Bill is providing for supplementary award. The scope is restricted only to the division or the apportionment. The idea seems to be to restrict this Bill to supplementary award which will mean only award in respect of apportionment and not in respect of the compensation. That seems to be the point.

The Honourable Sardar Baldev Singh: My whole difficulty is that an appeal will lie against the supplementary award, whereas no appeal lies against the original award.

Mr. Speaker: The original award which is a matter between the Government and the parties is not affected at all. That remains final. Supposing an amount of Rs. 10,000 is to be apportioned, and the apportionment is Rs. 4,000 for one party and Rs. 6,000 for another, and the claim of the third party who has claimed apportionment is rejected altogether, what then has the party whose claim for appointment is rejected, to do? That is the difficulty that, I believe, is obsessing the minds of those friends who are trying to move this amendment.

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): The original provision will contain procedural details and if you merely say an appeal will lie, all that will have to be introduced.

Mr. Speaker: I am not applying myself to the phraseology. I am merely pointing out the difficulties which hon. members have in view. It is entirely left to the hon. Minister either to accept or to reject the amendment. The point for consideration by the hon. the Minister is whether any appeal should lie in the case of apportionment. We have had discussion on this and I think this may be postponed and considered at 2.30. That may be a better course. I have mentioned the *prima facie* difficulty felt by members.

The Honourable Sardar Baldev Singh: Yes, Sir. That will be better.

Mr. Naziruddin Ahmad: My amendment depends upon the fate of this amendment.

The Honourable Shri K. Santhanam: The whole matter can be held over.

Mr. Speaker: I am holding over this particular clause 3. Mr. Naziruddin Ahmad's amendments to clause 4 are of a very formal character.

Mr. Naziruddin Ahmad: Although formal, it would remove a drafting blot. I beg formally to move them.

Mr. Speaker: Is he keen on pressing them? Such amendments in former Bills have not been accepted.

Mr. Naziruddin Ahmad: As the Bill is being considered by the Department, my suggestion may be considered.

Mr. Speaker: These amendments may also be considered.

Mr. Naziruddin Ahmad: And then there are other amendments of a more formal character, namely punctuation amendments. There is after all a lack of uniformity in punctuation. Punctuations after heading according to modern practice is omitted; it is entirely omitted in the new Constitution but still among the various Bills presented before us the practice differs with the different draftsmen and I submit that this should be regularized, and we should at least aim at uniformity. It is an eye-sore to those who have to notice this.

Mr. Speaker: He is referring to his amendments regarding long Title and Preamble.

Shri M. Ananthasayanam Ayyangar: The punctuations delayed the attainment of Swaraj so long.

Mr. Speaker: Did he refer to the long title and preamble? Well, of course the attention of the draftsmen will be invited to that.

I shall now put clause 1, the Preamble and the Title to the House.

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.

Mr. Speaker: Then we go to the next business on the agenda and I understand it is proposed to take up the Insurance (Amendment) Bill.

Shri B. L. Sondhi (East Punjab: General): When are we taking up clause 3?

Mr. Speaker: At 2.30 we will take it. We will give it precedence. We will first finish this Bill and then proceed with other business. Are hon. Members agreeable to that?

Some Honourable Members: Yes, yes.

INSURANCE (AMENDMENT) BILL

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

"That the Bill further to amend the Insurance Act, 1938, be referred to a Select Committee consisting of Shri M. Ananthasayanam Ayyangar, Shri T. A. Ramalingam Chettiar, Shri Arun Chandra Guha, Dr. B. Pattabhi Sitaramayya, Shri B. L. Sondhi, Shri L. Krishnaswami Bharathi, Shri Prabhu Dayal Himatsingka, Shri Mohan Lal Gautam, Shri Rohini Kumar Chaudhuri, Shri M. Tirumala Rao, Shri B. A. Knimji, Shri M. R. Masani, Shri Mahavir Tyagi, Shri Ramnath Goenka, Shri Ajit Prasad Jain and the Mover, with instructions to report on or before the 15th December, 1949 and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, this measure has had a somewhat long and chequered career. In one form or another most of the provisions that are incorporated in the present Bill have been before the country at large as also the Legislature for very nearly four Legislative years.

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

Now it is in effect a continuation of a Bill which was introduced in 1946. I may pause and tell the House that although since 1938, several amendments have been undertaken of the Insurance law, this is the first time when a comprehensive revision of that law is being sought. Now the Bill of 1946 had its origin in a report that was made by a Committee which the Government had set up in 1945 under the Chairmanship of Sir Cowasjee Jehangir to enquire into some trends and undesirable features in the management of Insurance Companies in India and to recommend measures that should be taken to check this evil.

Now, Sir, the Committee particularly dealt with certain practices leading to grave abuse in the Insurance business and I might as well place a few extracts on the main points dealt with by that Committee before the House.

They dealt with first of all the point regarding acquisition of interest in insurance companies by payment of exorbitant prices for the shares and the Committee stated that many cases were brought to their notice where a financier or a group of financiers acquired control of an insurance company by paying very high prices for the shares which had no relation to the existing market quotations of the shares or their present dividend paying capacity. In some cases the funds of a bank over which the financier had control were used either in whole or in part to acquire such shares.

Going on to deal with manipulation of life funds of insurance companies, the Committee stated that a financier was able to obtain control of a large life fund by acquiring a majority of the share capital which is small as compared with the life fund by paying, if necessary very high prices for the shares. Generally speaking, as shareholders are scattered even less than 51 per cent. would give a working majority and in one case it was found that about 30 per cent. was sufficient to gain control. The insurance funds can be used by the financier to serve other enterprises in which he is interested or for speculation.

The Committee thereafter dealt with the question of inter-locking between banks and insurance companies and stated that several instances had recently come to light where a bank and an insurance company had been started under the same management or have passed under the same management. Where an insurance company and a bank invest in each other's shares, the share capital of each concern represents inflated figures on the liabilities side and on the assets side the insurance company will show the shares of the bank while the

bank will show the shares of the insurance company. Both the insurance company and the bank will thus have an artificial appearance of strength owing to their assets and liabilities sides being inflated by the above manipulation.

I do not want to go into the report at length, but I think that these few extracts would go to indicate to the House the very grave nature of the abuses which were found by that Committee to prevail in 1945 and I submit that these abuses have not merely not stopped but they prevail on as much as the same scale as before and that actually makes out a very strong case for this measure being placed on the statute book, at an early date.

The other points in the Committee's report related to payment of large emoluments to the financiers themselves or officers of the company appointed by them, payment of compensation to existing management for relinquishing their rights and the system of deferred shares and cumulative preference shares, that gave, undue voting rights. The Committee made elaborate recommendations so as to remove the evils and these recommendations were substantially accepted by the Government of the day and were incorporated in the Bill that was introduced in the Legislative Assembly in 1946.

There was, however, an additional point of some importance which found its place in the Bill of 1946, a point which had not been considered by the Cowasjee Jehangir Committee. That relates to the limitation of expenses of insurance companies. A specific proposal was made in that behalf by a select committee of the then Legislative Assembly, which had another Amending Bill to consider relating to insurance in 1945. That Bill as reported upon by the Select Committee could not be considered in the Legislative Assembly on account of its dissolution in 1945. The proviso which they had introduced in their report in 1945 in regard to the limitation of expenses of insurance companies was also incorporated in the Bill of 1946. The Bill was considered by a Select Committee of the Legislative Assembly which reported in March 1947. The Bill was very carefully considered by that Select Committee and in its amended form was placed before the House in the Budget Session of 1948 when my hon. predecessor Mr. Bhabha, who was in charge of the measure, withdrew the Bill with the permission of the House. This was done on the 30th January 1948.

Now the principal reason for the withdrawal of the Bill at that time was that a great deal of uncertainty was felt about the position of insurance companies, due particularly to the partition of the country and the consequential uncertainty that might arise as regards claims. There was also a second consideration and that was as regards the uncertainty about the general price level and the scales of emoluments payable by insurance companies. The interval which has elapsed since the Bill was withdrawn from the House in 1948 has been fully utilised for the purpose of studying all the various factors of uncertainty that I have mentioned as also for the purpose of consulting the representatives of the insurance interests regarding the very many points which naturally were in controversy.

The House is aware that there is a Standing Insurance Advisory Committee composed of representatives of insurance interests which advises the Ministry. This Committee after giving full consideration to the situation subsequent to the withdrawal of the Bill suggested the appointment of a special informal committee consisting of a few persons possessing intimate knowledge of insurance matters to examine the provisions of the Bill in the light of the altered conditions, as also the provisions of the law of insurance as a whole. This informal committee was thereupon constituted and after a great deal of study of the proposals and the various factors bearing upon the question, made a

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very careful report. This report embodying the recommendations of the Informal Committee was again placed before the Insurance Advisory Committee. As a matter of fact a conference was convened, over which I had the honour of presiding, composed of members of the Informal Committee as also of the Insurance Advisory Committee. At that conference the whole matter was gone into fully and I may add incidentally that we gave full opportunity to representatives of chief agents and other agents of insurance companies to place before us their points of view. I may also submit that the Insurance Advisory Committee was in substantial agreement with the recommendations of the Informal Committee which had considered the matter in detail.

The draft Bill was then prepared on the basis of the previous Bill and in the light of the recommendations of the Informal Committee as endorsed by the Insurance Advisory Committee. This draft was seen by most of the members of the Informal Committee before it was finally revised. Now I should like to add that in the process of this final revision a few fresh provisions were introduced but I am assured that these provisions do not form part of any controversy. As I have already stated most of the provisions of the present Bill are a mere continuation of the provisions of the Bill of 1946 as amended by the Select Committee in that year. These provisions, broadly speaking, aim at putting a stop to all speculative activities which are possible to be indulged in to the detriment of the security of the policy-holders, through certain loopholes in the existing law. Thus the capital structure of life assurance companies as also voting rights of shareholders have been sought to be strictly regulated under our present proposals. In future there will be only one class of shareholders, namely the ordinary shareholders with equal voting rights and no person would be permitted to hold more than 10 per cent. of the shares except with the permission of the Government.

There are several other provisions seeking to regulate investments and payment of excessive remuneration. Powers are also proposed to be taken for the purpose of enabling investigation into the affairs of any insurance concern. The existing provision of Section 33, to which reference was made the other day in the course of an interpellation in this House, has been found in practice to be insufficient for the purpose of meeting the needs of the situation. At present it is possible for any insurance company, in respect of which action has been taken under section 33, to defeat the proceedings by resort to dilatory tactics and stop the legal procedure contemplated in that section itself.

Now the whole object of the present Bill in so far as these provisions are concerned is to put an effective check upon fraudulent and speculative transactions on the part of the management, some of which were reported upon by the Sir Cowasjee Jehangir Committee. Most of these provisions concerned life assurance business and to a lesser extent with general insurance. The reasons for discrimination between these two categories of insurance business are set out briefly in the Cowasjee Jehangir Committee report itself. The life fund belongs mostly to the lower middle and poorer classes who are not conversant with commercial practice. Life assurance contracts are for long periods, whereas contracts in the case of general insurance are mostly for one year at a time. The provisions relating to life business would of course apply to such concerns as transact life business as also to general insurance companies to the extent that they undertake life business.

I would now indicate briefly the departures that have been made from the Bill of 1946 in certain important directions. The most important departure which the present Bill represents is in respect of limitation of expenses. The

Bill of 1946 which was withdrawn in 1948 attempted to limit the expenses of insurance companies by the provision of definite statutory maxima. There is no dispute as to the necessity for the limitation of expenses.

Shri B. L. Sondhi (East Punjab: General): I suppose only for life companies?

The Honourable Shri K. C. Neogy: That is true. If a company continues to overspend in comparison with its business it is bound to come to grief, inflicting hardship not only on the shareholders but to a much larger extent on the policyholders, particularly in the case of life assurance business. Excessive expenses also tend to keep up the rate of premium. The difference of opinion which we encountered, however, in this connection was with regard to the question whether rigid maxima of the rates fixed by law would be suitable. It was found that having regard to the widely varying proportions of expenses in the different classes of insurance companies, any rigid maxima fixed by law would be difficult to enforce in practice unless the rates were so high as to be ineffective in really curbing extravagance. This is so because there is no scientific basis for fixing a ceiling for expenses though the experience of well-managed companies would be a fair guide. The informal Committee therefore suggested that in view of these practical difficulties an elastic system should be introduced. The proposal now is that an Indian Insurance Association should be formed by law of all insuring concerns and memberships of the Association would be a statutory obligation before any one concern could transact any insurance business. This Association will have two Councils, one for the life insurance business and the other for general insurance business. Representation on the Councils would be secured both on a regional basis as also on the basis of the assets of the Companies, apart from governmental, trade and technical representatives. The intention is that each of these Councils, which will have executive powers, would every year consider the expenses in relation to the business of different classes of companies having regard to the conditions that prevail during the year and determine what should in those circumstances be the reasonable ceilings for expenditure for each class of these companies. The Superintendent of Insurance who, it is proposed, will be known hereafter as the Controller-General of Insurance would thus be enabled to take action in regard to those companies that have been found to be extravagant. It is hoped that this method would prove a more smooth and at the same time a more elastic procedure for the purpose of regulating rates of expenses. Apart from this duty, the Association and its Councils will have an opportunity of laying down standards of conduct for themselves which indirectly would be reflected in improvement in their business generally and the advantages that accrue to policy-holders as a result of such improvement. The whole object of this new machinery is to create a collective sense of responsibility in the insurance concerns and a statutory machinery for advising Government in the matter of control and supervision of insurance companies.

Sir, may I suggest that we might adjourn* here because I have to take on a different point?

Mr. Deputy-Speaker: Yes.

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.

REQUISITIONED LAND (APPORTIONMENT OF COMPENSATION)
BILL—contd.

The Honourable Sardar Baldev Singh (Minister of Defence): Sir, I am prepared to accept the amendment of Mr. Rohini Kumar Chaudhuri to sub-clause (3) of clause 3.

Mr. Speaker: Then I shall put that amendment to vote.

Shri T. T. Krishnamachari (Madras: General): Sir, may I informally ask this? Is this going to be a matter of indefinite duration without any question of a time limit? Also, there must be some reference to the rules made thereunder.

Mr. Naziruddin Ahmad (West Bengal: Muslim): The Limitation Act will apply.

Mr. Speaker: I don't know if the Limitation Act will apply, but probably it might. I have not considered that aspect. That is why I left the whole thing over for examination by the hon. the Defence Minister.

Pandit Balkrishna Sharma (U.P.: General): Sir, in regard to the omission of these words, you may as well be pleased to take into consideration section 19 of the Defence of India Act of 1939, clause (f). In that clause it is written that "an appeal shall lie to the High Court against an award of an arbitrator except in cases where the amount thereof does not exceed an amount prescribed in this behalf by a rule made by the Central Government". Now, I think even though we are enacting this new law we are not doing away with the Defence of India Act of 1939, nor with Act XVII of 1947, both of which have got this limitation. So, I would like to know how the position will be affected in regard to the whole law after the passing of this amendment.

Shri T. T. Krishnamachari: It won't affect the whole law.

Pandit Balkrishna Sharma: It is for you to say, Sir.

Mr. Speaker: Not for me. It is for the House because it is their piece of legislation, not mine. But I am sure this position also must have been considered.

The Honourable Sardar Baldev Singh: Yes, Sir.

Mr. Speaker: So we accept the advice which the hon. Defence Minister has got from the Legal Department. I will put the amendment to vote. The question is:

"That in sub-clause (3) of clause 3 of the Bill, all the words occurring after the words, brackets and figure 'sub-section (2)', be omitted."

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.

Clause 4 was added to the Bill.

Mr. Speaker: Clause 1 and the Preamble and Title have already been adopted.

The Honourable Sardar Baldev Singh: 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.

INSURANCE (AMENDMENT) BILL—contd.

The Honourable Shri K. C. Neogy (Minister of Commerce): Sir, before the House adjourned, I was trying to give a general idea about a few of the more important points which have been introduced into this Bill for the first time. I have already referred to the proposal for the establishment of insurance companies. One other point of importance to which I should like to refer in this connection is as regards the proposed revision of the proportions in which the investments of life insurance companies might be made in different categories of investments.

Now, Sir, the investments of life insurance companies have been considered from the larger angle of security of the policy-holders without ignoring the aspect of the yield on these investments. The life funds built out of premiums and representing the reserve for the fulfilment of long-term contracts have to be invested so that they are safe and at the same time earn a reasonable rate of interest. Assets to cover life insurance liabilities may be held in India at present in three classes, namely, Government Securities, Approved Securities and others, in the proportion of 25, 30 and 45 respectively. The present Bill provides that the third category should consist only of Approved investments specified in the Bill. Up till now, the requirement has been held in Government per cent. of the assets of the life insurance company thus being reduced to 50, and Approved Securities. This adjustment would represent the other 50 per cent. By this adjustment there will be no substantial decrease in security, but it is hoped that thereby the companies may earn a slightly better yield from their investments. It will be further noticed that in this Bill, we are placing all non-Indian insurers including U.K. interests on the same footing as Indian insurers in this regard. Non-Indian insurers would of course have to keep all such assets as vested in trustees who are citizens of India or companies incorporated in India. This should safeguard the position of the Indian shareholders of such companies.

As regards the Chief Agents, Principal Agents, Special Agents and Insurance Agents the commission method of remuneration is proposed to be restricted only to these categories. At present only the insurance agents are licensed and the commissions payable to such agents are limited by the Insurance Act. The method of licensing would now be extended in the case of life insurance business to Chief Agents, Special Agents and Insurance Agents and in the case of general insurance business to Principal Agents and Insurance Agents. Qualifications by way of volume of business, spheres of activity, territory and so on are to be prescribed for the Principal Agents, Chief Agents and Special Agents. The commission payable to the various classes of Agents will be regulated and the maximum limits prescribed. The only exception will be the Chief Agents in life insurance business and this is because the Chief Agents, as they exist today, differ widely in the scope of duties entrusted to them. A complete uniformity of treatment is not therefore possible to be had in their

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case just at the present moment.' The exception was called for exclusively for these practical reasons. There are some Insurance Managers who draw remuneration as renewal commission on premium income. This system has enabled unjustifiably large incomes to be derived by such Managers and will be put an end to.

In the conditions of service of agents some liberalisation has been attempted in this Bill in one direction. At present, if an agent has worked for ten years, he is entitled to get his renewal commission on the policies introduced by him even if he ceases to work for the company, provided he does not work for any other company. Under the present Bill, one who has served a company at least for seven years and has contributed a total business of Rs. 1½ lakhs would also be entitled to get renewal commission on the policies introduced by him even if he works for another company, provided his policies of the first company do not fall below 40 per cent by lapse or surrender. Yet another class of agent will also be entitled to the renewal commission even if he worked for another company, but in that case Government will have formally to declare the original company to be unsatisfactory for this purpose.

One other benefit that the present Bill contemplates for the insurance agents is by enabling Provident Funds to be established by the companies for the benefit of insurance agents. It is expected that the companies would make contributions to the Provident Fund over and above what they pay the insurance agents as maximum commission under the provisions of law.

One feature of the present Bill may be found to be particularly interesting to the hon. Members. We are providing facilities for the conversion of proprietary companies into mutual companies. The shareholders' interest in an insurance company, particularly a life insurance company, is extremely limited compared to the interest of policyholders. It is therefore desirable that a small body of shareholders with such a limited interest should not at any time act in a manner contrary to the interests of the large body of policyholders. It may be desirable in certain circumstances to convert a proprietary company into a mutual one. The process contemplated does not involve going to a court of law for making an application to the Central Government for having the scheme sanctioned, though there may be an appeal to the High Court from any decision of the Government in this matter. When on the last occasion this House gave leave for the withdrawal of the Bill suggestions were made by two hon. Members that insurance business should be nationalised. Government considered this suggestion and have felt that for the time being the provision that is being made in this Bill for facilitating the conversion of proprietary companies into mutual companies may be found to be a suitable compromise. The whole scheme of insurance law as it will stand if the present measure is passed will enable a considerable degree of wholesome control and supervision by Government over insurance business though in full co-operation with the business interests themselves. Many of the prevalent abuses are also expected to be a thing of the past. We may thus have much of the advantages or nationalisation of insurance under the proposed scheme without actually taking over insurance business as a State monopoly.

I have already stated that this measure in substance had been before the legislature for about four years and adequate consideration has been given to all the various proposals that are now embodied in this Bill. I may mention that already three Ministers of the Government of India had something or other to do with this measure. Mr. Azizul Haque introduced it in 1946 and it was at his instance that the measure was referred to a Select Committee. But when the Select Committee came to consider the proposals already there had been a change of the Commerce Minister and Mr. Chundrigar was the

Minister in charge when the measure was considered by the Select Committee. Later, in 1948 when the matter came up before this House and the Bill was withdrawn with the leave of the House, Mr. Bhabha was in charge. May I hope that I shall be the last Minister to deal with this measure. I do hope that with the support of this House, it will be my privilege to place this very important measure on the Statute book.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Insurance Act, 1938, be referred to a Select Committee consisting of Shri M. Ananthasayanam Ayyangar, Shri T. A. Ramalingam Chettiar, Shri Arun Chandra Guha, Dr. B. Pattabhi Sitaramayya, Shri B. L. Sondhi, Shri L. Krishnaswami Bharathi, Shri Prabhu Dayal Himatsinha, Shri Mohan Lal Gautam, Sjt. Pohini Kumar Chaudhuri, Shri M. Tirumala Rao, Shri B. A. Khimji, Shri M. R. Masani, Shri Mahavir Tyagi, Shri Ramnath Goenka, Shri Ajit Prasad Jain and the Mover, with instructions to report on or before the 15th December, 1949 and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Shri T. T. Krishnamachari (Madras: General): Sir, I would endorse the hope of the last speaker that this measure, which has passed through the hands of three Members of Government, should at least be finalised during the time of my hon. friend Mr. Neogy, who is in charge of the Commerce Ministry, and in this session. At the same time, I cannot say that all the provisions of this Bill which is being referred to a Select Committee are either wise or unexceptionable.

Sir, I had the good fortune or the misfortune—as the House may construe it—to be a member of the Select Committee on the first Bill and that in 1944-45. That Select Committee did not have the benefit of having before it the report of the Cowasjee Jahangir Committee. But nevertheless the condition of this particular industry—if it can be so called—was so bad that the Select Committee, at that time, were prepared to consider putting into the Bill certain provisions which find a place in the present Bill in a different form. That Bill did not go through, not because the House was dissolved as my hon. friend the Mover put it, but because the European element in the Legislative Assembly did not like the Bill and they wanted to raise the issue, that it offended those sections of the Government of India Act which gave protection to British commercial interests.

Sir, the report of the Cowasji Jahangir Committee, I think, provides a starting point for viewing the insurance business from an angle totally different from which the makers of the original Insurance Act in 1938 looked at it. I had very carefully read the Cowasji Jahangir Committee report at the time it was published, or rather circulated in private, and knowing as I do the Chairman of the Committee and his bias towards conservatism, I was surprised that the report went as far as it did. Sir, the report is an indictment on the entire insurance business as it is now functioning in this country today. The report revealed the tendency on the part of certain persons financially strong and powerful, having the use or control of banks, trying to monopolise insurance business by capturing it—by buying shares and getting a control over the business. The facts which are admitted by the Committee are damaging enough, so far as the insurance business is concerned and the manner in which it is run by and large. There might be honourable exceptions but the exceptions only prove the rule.

Sir, at the time that the report of the Cowasji Jahangir Committee was considered by the Government of the day the whole matter was in a state of flux. The Government did not know how long it was going to last and even though the matter was taken before the House and a Select Committee was appointed, it was quite reasonable to expect that the Government were not prepared to go to the length that the findings of the Cowasjee Jahangir Committee Report entitled them to or warranted such action.

[Shri T. T. Krishnamachari]

I am rather surprised, Sir, that in the year 1949 when India is free, when my hon. friend the Mover has only one opinion to respect, namely public opinion and nothing else, that we should be considering a measure so halting in its nature, so completely ill-equipped to deal with a malady of such a serious nature that even my conservative friend Mr. Cowasji Jahangir found that things were so bad as to demand drastic action. It is surprising, Sir, though it is a great compliment to my old friend Mr. Cowasji Jahangir, that this measure should incorporate in full those remedies that he suggested—remedies that he suggested against a flood of such a powerful nature that the flood control will be washed away the moment it is applied.

Sir, I am afraid that the Bill is very defective. The Bill is defective merely because it does not seriously deal with the issues raised, issues on which the Cowasji Jahangir Committee report had made definite findings. He does not attempt to tackle it as a popular government should, as a Minister with the background that my hon. friend, Mr. K. C. Neogy has, ought to. Sir, the solution seems to be simple. I am not one of those who are committed to any particular kind of 'isms'. I have no bias against capitalism as such. I am not a socialist, excepting for the fact that ideologically it does appeal now and again as being one of the ways by which a welfare state could possibly be run, but on a matter like life insurance in a state like ours I do not think there is any room for shilly-shallying, for tinkering with interests which have proved that they are no longer capable of the work in the first place, and trustworthy enough in the second place, to handle the moneys of the people who in distress, or to avoid a possible contingency of distress have sought this means of providing for the future. Sir, I think in 1949 to bring in a Bill of this nature, so far as life insurance interests are concerned, is merely shutting your eyes to realities and playing the game of blind man's bluff.

Sir, one has got to be thankful for small mercies and I am glad that my hon. friend the Mover has at any rate made it a matter in which he has such great interest that he wants to push it through today. Well, let us make a beginning, let us make a slight change if it is necessary and I suppose if it is proved, as I am afraid it would unfortunately be proved, that this Bill is not adequate to deal with those people who have been monkeying with the life insurance business, well, then the Government of the day will certainly wake up to realities and do the only thing that is proper.

Sir, I would like to mention a few details—though I have no desire to go into great detail—which I think the Select Committee might very well consider, and after consideration, if they feel like it, adopt such improvements as I am capable of suggesting. Sir, the one main point that my hon. friend Mr. Neogy made was this: he claimed that this Bill would be putting a stop to speculative activities in regard to the shares of life insurance companies. He claims that by reason of the change in the capital structure provided for by this Bill in the proposed new sections 6A, 6B and so on, and also the provisions in regard to voting rights, namely that a bank can have only 2½ per cent. of the total shares of the company, whereas other companies or individuals can have about 5 per cent., it would permit of strict regulation of this business and also seek to remedy the defects that have been pointed out by the Cowasji Jahangir Committee. I must join issue with him in this tall claim that he makes for this Bill. The capital structure that is envisaged in this Bill under proposed section 6-A is quite good as far as it

3 P.M. goes, because I do agree that there is no meaning in having various types of shareholders. The best thing to do is to have a single type of shares and allow companies to bring themselves in line with this plan.

In regard to holding of shares I do not think that the suggestion made in this Bill, which has been so strongly supported by the Mover and which is held up as being something which would prevent fraud and speculative activity, would be sufficient to meet a particular case I have in mind. I do not want to mention names. There is a particular company, a very big company, whose matters, particularly in regard to share holding are now under dispute. I want to apply this Bill to test in this case and see whether the provisions thereof, if it becomes an Act, will prevent those people who want to get control of that company by means of possessing certain shares from getting that control. I find that it would not, because what will happen is that 5 per cent. of the shares will be held by one person. We want 51 per cent. to get control. All that we want is to have eleven persons who have five shares each in order to get the control of the affairs of a company in our hands. Well, in point of fact, while dealing with financiers and clever capitalists and powerful vested interests, all that we can do is to raise the fence. But the higher you raise the fence the greater becomes their capacity for doing pole-walking. They will walk over any fence you set up. Your higher fences merely help them to train themselves to jump over higher fences. I do agree that in a matter of this kind, no amount of raising the fence would ultimately solve the issue. Only more difficulty will be put in their way. So the position is, what is the use of feeling satisfied that this provision of 5 per cent. of shares will prevent speculation and fraudulent activity on the part of those people who look upon the Life Fund which will be available in a life insurance company as being a potential source of making more money and getting more financial power?

I am suggesting to the hon. Mover, if he is really open to receiving suggestions, that either he should make 2½ per cent. of share-holding a common thing for all institutions or, in the alternative, keep the provisions of this Bill as they are and put in a provision saying that no single person can exercise more than 1 per cent. of the total voting rights provided by a company. That will obviate the trouble of these people having to go and sell the shares. It is better to curtail voting rights rather than seriously interfere with the holding of shares. It really happens that a benefit holder who holds 5 per cent. may not care to exercise all five votes. But it does happen. In one company where the capital structure is so small—it is about Rs. 80,000 and it happens to be one of the biggest companies and is one of the first ten or twelve insurance concerns—that the bulk of it is held by one person. I do not know whether he will be willing to sell the shares. He and his predecessor have been collecting shares. So, the alternative is to make a provision that the maximum voting strength of a share-holder shall not be more than 1 per cent. of the total strength. This will raise the fence a little higher and make fraudulent activity a little more difficult.

Another matter is in regard to new section 6-A—clause 9 of the bill. I find that there is an explanation to sub-clause (2). Actually that explanation ought to apply to sub-clauses (3) and (4). I do not know why they have merely made the explanation apply to sub-clause (2) only.

In regard to proposed section 6-C the wording is rather peculiar. In regard to certain changes in the structure of companies which have to be changed the wording is "(b) that the consent of the creditors to the conversion of the company limited by shares into a company limited by guarantee has been obtained." I wonder whether they include the many policy holder share-holders.

In regard to clause 13, I welcome the change from the quinquennial valuation to triennial valuation of the assets of the insurance companies.

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In regard to clause 14 which refers to section 19, there is a slight change made. They want certified copies of the minutes of a general meeting to be sent to the Controller-General which would include particulars of the meeting held. I want to ask how far this would be really useful. I have before me a copy of the Indian Insurance Year Book and comments of the Superintendent of Insurance, who is going to be called in future Controller-General of Insurance. Para. 6 refers to policy-holder directors who number 42. The total number of elections reported since November 1947 is 39. In five of these cases, information was not received in regard to the number of candidates who stood for election, etc. On an analysis of the remaining 44 elections

the number of contested elections was only 7. It is a very short paragraph. What is the use of this kind of information when we know that in practically every case, the policy-holders' directors elected are the nominees of the management? In no case is a policy-holder director elected purely voluntarily without any persuasion by the management, by policy-holders themselves. What is the object in further keeping it up saying that the minutes must be sent to the Controller-General when all that he is able to get from the minutes is this sort of useless information? In every case the policy-holders' director will be a nominee of the management. If the Government really want information, they should ask for specific information in regard to the means by which the policy-holders directors are elected. I do see this that in this particular Bill an express prohibition has been made as against policy-holders' directors who may have any interest in the company. That might perhaps become sort of check. But I would like to go further and say that in regard to the election of directors, either the Controller-General himself must nominate the person or persons to be policy-holders directors or the Government should do so. I see that a change has been made by which two directors at least must be policy-holders' directors. Though there are two in several companies like that now, there is no meaning in it, unless the Controller-General is himself going to nominate the two Directors from among the policy-holders. The alternative is to leave the policy-holders to their fate. Let them elect whomsoever they want even people pliable to the management and the best thing would be to nominate directors by the Central Government or on the advice of the local Governments.

Shri B. L. Sondhi (East Punjab: General): Out of the policy-holders.

Shri T. T. Krishnamachari: Let him be anybody who will owe his appointment to the Central Government so that he will expose fraud on all occasions when fraud is found. Sir, I do not think this is really a matter for laughing at all because, as I said, this is a very serious matter in which there is no point in treating the question lightly.

Sir, I come now to a very important portion of this Bill, viz., clause 31 and new sections 40A to 40C. If I am not wasting the time of the House, I would like to devote a few minutes to this particular matter because this question of limitation of expenses first came up before the Select Committee that was appointed in 1944 for the Bill which was introduced at that time. Sir, I agree with the provisions of this Bill in regard to the limitation of expenses so far as life-insurance is concerned. My hon. friend who is sitting to my right says "composite companies". Composite companies will have to keep their accounts separate. They will have to keep life insurance separate from general insurance. I agree that there should be limitation of expenses so far as life insurance business is concerned because the ultimate beneficiary, if beneficiary he be, will be the policy-holder, but what is the object of the Government interfering in so far as general insurance business is concerned? Sir, I would like to draw the attention of my hon. friend the Mover, to a very interesting minute of dissent in connection with the 1946 Bill by Mr. Ormiston and Mr.

Hirtzel, though I agree that that minute of dissent was by interested parties. Their minute of dissent seeks to make a distinction between life insurance business and general insurance business, and in point of fact that distinction has been acknowledged by the hon. the Mover and has been partly acknowledged by the Cowsaji Jehangir Committee's report. The hon. Mover laid emphasis on the need to control life insurance business because of the long-term nature of the contract. Once a contract is entered into, once the policy-holder enters into a contract with a life insurance company, he is helpless in the hands of the insurance company, and the Government has to protect his interests, whereas in general insurance business, contracts are yearly contracts. In fact it is not even that. Life insurance happens to be a public utility of a first-class nature. In fact in this country, life insurance has got to be developed probably a hundredfold before it can be of real use to the average man, and everything must be done by the Government to encourage the development of this scheme, whether it is done through private companies or it is done by means of State insurance itself. But so far as general insurance business is concerned, it is not on the same footing. It is a pure and simple business proposition. If I feel like insuring my assets against fire, burglary, I go to any insurance company I like and I enter into a contract with them. In point of fact, business does not work like that. Every general insurance business has a portfolio of its own. Business generally starts when there is a certain portfolio available. In former times particularly in 1944 and 1945 when vested interests were running general insurance business, they did a lot of lobbying. There was such an enormous amount of lobbying that the Select Committee was inclined to consider incorporation in the Committee's report of a scheme of limitation of expenses not merely for life insurance but also for general insurance, which was really a sort of tug-of-war between Indian local interests and foreign interests. The foreign interests had a larger quota of expenses, because their salaries were higher. The Indian interests thought that if there was limitation of expenses, it would tell against the foreign interests and that was the reason why the foreign interests sabotaged the Select Committee's report because they said it was discriminatory as it acted against the interests of the foreign firms in this country. Well, if hon. Members of this House feel that they ought to help certain classes of Indian interests against certain foreign interests, they are at liberty to do so, but I would like to point out to them that these Indian interests are dependent upon foreign interests for the purpose of re-insurance in many cases. What would happen is that these bigger Indian interests will join the foreign interests and squeeze out the smaller ones. I would submit to my hon. friend, the Mover, that if he will permit these provisions, that part of new section 40A and that part of new section 40C which give powers to the Executive Committee of the General Insurance Branch to function, before long, there would be only four or five companies in this country doing general insurance business. If that is his idea, if my hon. friend has in his mind the idea that he will ultimately take everything over, that he will allow the bigger fish to eat the smaller fish as a preliminary step, he might pursue this matter, but I would like to warn the Members of this House that we cannot take this lying down and allow the big Indian vested interests to squeeze out the smaller concerns. I do maintain that there is every reason for this House, for the Legislature, for a popular Government, to interfere to the fullest possible extent with life insurance business. Here I am merely pointing out the matters in which the Bill could be improved upon. If they are not going to take over general insurance business as a Government monopoly, I see no reason why they should try to interfere with their rates, or in the method of their expenditure, or in their management, or the commission that they are paying to their principal agents, subsidiary agents, etc., because the Government is not going to interfere with private enterprise today, and I do hope my hon. friend, the Mover of this Bill, will examine this Bill a little more carefully and not be guided by the

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very powerful vested interests into a particular venture where the smaller concerns will ultimately suffer and the bigger ones will get away with it.

Prof. N. G. Ranga (Madras: General): What about the interests of the insuring people?

Shri T. T. Krishnamachari: So far as general insurance is concerned, it will only be a short-term contract for a year or so, and their interests will be safe. A man who goes in for general insurance is generally a man who knows what he wants and he is likely to take care of his interests.

Incidentally, I would like to refer to one action of this Government though it does not fall within the activity of my hon. friend, the Commerce Minister, nevertheless is a matter which the House can take note of and the Government can take note of. By the provisions of chapter 8 of the Motor Vehicles Act, the operation of which was deferred from 1943 to 1946, the Government have by a stroke of the pen put a lot of money into the hands of general insurance interests. Third-party insurance is now compulsory for every motor car and by this an enormous amount of money has gone into the hands of insurance interests in respect of motor cars. May I ask, Sir, whether the rate of insurance for motor cars has been brought down because there is such a quantum of business coming into their hands?

Shri B. L. Sondhi: I thought the rate has increased.

Shri T. T. Krishnamachari: The prices of cars having gone up, naturally these people are reaping an enormous amount of benefit from the misguided and thoughtless action of a Government which has not provided for a State Corporation and the Government in taking this short-sighted decision has merely put such a lot of money in the hands of private *entrepreneurs* so that they can make a little more profit, their agents and shareholders can make more profit. This is a thoughtless piece of action. The popular Government has not even thought of this matter. They have not considered the feasibility of interfering in the activity of these companies and bringing down the rates. Nor have they on the contrary taken over the entire business themselves, so that ultimately the tax-payer might benefit from an imposition of this nature rather than the private interests and private shareholders should benefit.

Sir, I am mixing up important ones with minor ones, but I think I depend largely on the order in which these things appear in the Bill. Now clause 32 in regard to section 42. There is a new sub-section (3) which extends the period of the licence of an agent from one year to three years. Very curiously enough there is a provision there which says that if a person does not apply for licence before it expires, then he won't get the licence. I do not see why by making this licence period three years he must put a penalty on an unwary licence-holder who fails to apply and I cannot see the sanctity of the continuity of a licence provided there is no fraud, and in these circumstances, it seems to be a needless provision and I hope the Select Committee would look into it.

Sir, there is one particular matter which is also rather intriguing in clause 41. In clause 41 the new Bill categorically states:

"Provided further that the share of any such surplus allocated to or reserved for the shareholders (including any amount for the payment of dividends guaranteed to them, whether by way of first charge or otherwise) shall not exceed ten per cent. of such surplus."

Sir, this looks innocuous that ten per cent. of such surplus should be given over to the shareholders. I did find that in the Income-tax Investigation Commission's report on page 45 the Commission has given quite some thought

to the question of taxing the surplus that arises out of the quinquennial valuation. Formerly only 50 per cent. of it is taken as given over to the policyholder as bonus and the insurance interests have been asking for the tax burden to be lightened and have put forward a case that the bonus payment surplus is made merely because of a larger premium collected which is being refunded to the policyholder. That is, what is refunded to the policyholder so far as bonus is concerned is excess premium charged in order to provide a bonus so that the distinction between with profits and without profits in the endowment policies can be maintained. All the plea put forward before the Income-tax Investigation Commission was that all the surplus arise only because they have charged the policyholder more, they have loaded his premium and that comes back in the shape of surplus and the income must come to the policyholder and no tax must be levied on it. I want the House and the Select Committee to juxtapose this particular argument which is found at page 45, paragraphs 103 to 113 of the Commission's report which every hon. Member has, this particular recommendation and the argument adduced by the vested interests in support of those recommendations and this particular provision in the Bill and they will find that the shareholders have no right whatever to any portion of the surplus. Sir, I fail to see how my hon. friend should have so glibly accepted the claims put forward by the life insurance interests and incorporated a provision of this nature in the Bill.

Sir, as I said I see a saw between an important provision and a less important one. I find, Sir, that the Bill has made a very welcome provision for the appointment of an administrator in the new section 52-A. It is a good idea, and I have nothing against it; on the other hand, I welcome it. At the same time I would like the Select Committee to link up this particular section with section 34-A which provides for investigation. In fact even though the appointment of an administrator might have to be done very quickly, some kind of investigation would undoubtedly be necessary and I think it is better to link some kind of investigation before the Administrator is appointed.

Sir, I come to the most important provision in this Bill, namely whether both the life insurance business and general insurance business should be controlled by autonomous bodies. That happens to be the basic scheme of the entire Bill. As I said before, I welcome the provision of an autonomous Board so far as control of life insurance business is concerned; I do not even mind the provision of an autonomous board so far as general insurance is concerned provided the Government do not give it any special powers excepting what the companies themselves seek to do. If the companies come together and they agree to voluntarily impose a limitation of expenses on themselves, they propose to limit their chief agents remuneration or they propose to run the whole business in a particular manner, I cannot see how it is our business to interfere. But so far as life insurance business is concerned limitation of expenses happens to be a very necessary factor and I think it is a scheme that is well worth a trial if the Government is determined not to take on to itself this business of life insurance. The alternative is certainly a board of that nature. I see in the life insurance board the composition of the Executive Council will be eight persons to be appointed by the industry and seven persons by Government representing various interests. I have got one suggestion to make in this regard, namely that one of the eight persons should be a person representing the co-operative life insurance interests. I think it ought to be statutorily provided for. There are only three companies and one will be adequate for the time being. So far as the general provision in regard to control of life insurance business is concerned the Government have made one change in regard to the quantity of life fund which it wants to control absolutely. From 55 per cent. it has come down to 50 per cent. The Government have made certain provisions in regard to the manner in which the other 50 per cent. should be invested. I think some of these provisions are extremely

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onerous; they have adopted the recommendations of the Cowasjee Jehangir Committee almost *in toto* but to say that life insurance interests should invest in companies which for a period of five years have been paying dividends would necessarily mean that when the valuation is made, there will be very little of surplus because they have not been able to take advantage of using their own native intelligence and invest money in a concern which is likely to be a stable concern and is likely to yield a fair and better return. So all these chances of making a little more than what would normally be available by the normal channels would be prevented for them as if they are going to purchase shares of the company which have been paying dividend for five years and the value of that share would be determined almost by the rate of dividend that the Government have fixed. Three per cent. or $3\frac{1}{2}$ per cent. would determine the value of the share and no benefit would accrue. Well, my hon. friend will get up and ask me: "You have been pleading for stricter control; you have been asking that these interests should not be permitted to handle these funds because they have been misusing these funds and these funds have been the main attraction for speculators to come into the business. Why do you make a suggestion that you should have more latitude?" I will mention what my suggestion is. I do not see why the Government in constituting the Council to control the business of these insurance companies should also not constitute an Insurance Investment Board for life insurance business. Let it be managed as far as possible by experts. But let them invest the 50 per cent. to be invested otherwise. Then you can give a little more latitude in regard to the manner of investment. The best way is to take the top ten or twelve companies. Let the Managers of those companies be the Directors of this Investment Board—let the other Companies elect two Directors—and between them let them manage the fifty per cent. left over in the life insurance fund, so that there will be no chance of fraud and there will be no chance for an outside speculator to come into the field at all and so that you can completely deprive them from the handling of these assets except by a common body constituted of experts who know market conditions, who are paid people and who would therefore not have any interests in cheating the general public to more than what the normal temptation is in these matters. I would like to throw that suggestion to my hon. friend's consideration. Please try to create an Investment Board manned by these people with a Government Director if necessary and take over the control of the entire 50 per cent. that is left over.

So far as non-life business is concerned I have already said that I would rather that the provisions in regard to the powers of the Executive Board are whittled down to practically what can be done by the Executive Board on an agreed basis without any statutory powers for them, because I do foresee the risks of bigger companies holding the sway and the smaller ones going out of existence.

One final word in regard to the remuneration of people employed in insurance business. I agree with the provisions here which give the Controller-General the power of deciding what is a reasonable salary and what is not. But I do not know if it is one that could be adequately exercised by the Controller-General. The reason for my mentioning it is this. The amount of onus—the burden—cast on the Controller-General is far beyond what we have cast on the Reserve Bank by the Banking Companies Act. At any rate the Reserve Bank is an institution; there is a Governor, there are two Deputy Governors—there may be three—there are a number of officers, fairly well trained, and there is a Board of Directors appointed by Government. Here a single man is vested with the whole lot of control, and though there will be a certain

amount of autonomy by means of these Boards I am not quite so hopeful of a single man being able to manage this business. I do not know if the Government could not find some other alternative. Personally, if I were in the hon. Member's place, I might say "why not ask the Reserve Bank to look after this business by appointing one section to run the insurance business?" In any event, the choice of the Controller-General is going to be a very difficult problem. And it will be much better for Government to have a committee to advise the Controller-General, if necessary made up of people of the Commerce Ministry and from his own establishment to assist him, rather than leaving him alone in this matter, because the Bill will fail or succeed, even to the limited extent that it seeks to help life insurance, by the personality of the Controller-General. I am also not quite sure that my hon. friend, the Mover, is going to find that Paragon to fill this very difficult position that he is now creating for the Controller-General. I hope the Select Committee would be able to devise some means of providing an alternative, or a help to the Controller-General so that the responsibility might be a little distributed over more than one person—perhaps two or three, if necessary. But it is a matter which Government would do well to consider.

On the whole, as I said, in so far as the attempt is an honest attempt to stop the rot in the insurance field it is a good one. But I wish my hon. friend, the Mover had given us the instances of the number of insurance companies that have changed hands, the number of times that each has so changed and how the perilous position of the security of the policy-holder has been reduced. I feel that the attempt is almost like closing the stable door after the steed has flown. But I do wish my hon. friend good luck with regard to this measure. I do hope, however, that in the Select Committee he will consider very carefully the desirability or otherwise of roping into this Bill two entirely unallied interests except for the fact of nomenclature. Insurance is a word that covers both life insurance and general insurance. But life insurance has nothing to do whatever with general insurance. I would suggest to him to leave general insurance alone for the time being and devote all his time and attention to life insurance in which the field is very wide, in which no safeguard is superfluous and in which the amount of fraud going on is something far more than what my hon. friend knows or is prepared to imagine.

Sir, I support the motion.

Prof. K. T. Shah (Bihar: General): Sir, at this moment when the Bill is being referred to a Select Committee I think it proper to invite the attention of the House to the basic principles which ought to guide us in dealing with such matters of social utility as the insurance business of the community. It is unfortunate that matters of such integral and cardinal importance should be taken *ad hoc*, and dealt with separately as if a specific evil or a specific obstacle has to be particularly remedied, without looking into the proper co-ordinated place of each such measure in the general economy of the country. Accustomed as I have been to look at the aggregate of the national economy, and try to fit each such measure into a common, over-all, national plan, I feel it important and necessary to draw the attention of the House to the real place, essential nature and basic character of insurance as an integral item in our national life. Only if we look at it in that way, only if we realise its place in the aggregate of the national economy would, I submit, we be able to deal with it properly in its correct perspective and proportion.

It is from this standpoint that I would like, in the first place, to suggest that insurance is not, and cannot be a method or means of new wealth being created in the community. If it is anything, it is really a mean to safeguard and to protect that which is. And if you extend its scope further, it is a method by which the available wealth of the community can be more effectively

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mobilized, more fruitfully, more safely, more productively employed to the common benefit, not only of those immediately concerned, but also of the community as a whole. Taking this view of the true nature of insurance, we must also realise that the parties concerned in this insurance business are not, as is emphasised here in this Bill, and in all measures of this character merely the consumers, so to say, of the insurance service—the policyholders let us say; or even the proprietors who provide this insurance business but the community as a whole whose interests are scarcely attended to in proposals of this kind. Going through this Bill which is an amending Bill, along with the original Act which it seeks to amend, I fear this aspect of the matter is not fully appreciated by the hon. the Mover, and by such of the suggestions that have so far been made in respect of this Bill.

The policyholders no doubt attract the utmost attention, and I am not going to suggest that it is not proper to look after their interests and safeguard them as much as we can. Nor; under the present basis of society, would it be quite in order to suggest that the proprietors or the shareholders interests be altogether overlooked. Speaking for myself, regarding insurance as essentially a social utility or a public utility service, I see of course no reason why any element of private proprietorship or profit-seeking individualism should be introduced therein. It is one of those essential services in modern economy which must be, in my opinion, owned, manned and controlled in the common interests by the representatives of the people as a whole. That is to say the State as an organ of society. In no field, whether it is life insurance, whether it is general insurance, accident insurance, unemployment insurance or health insurance, would I suggest or allow that insurance be a matter of private concern to be a prey at the mercy of the profit-earning instinct of private capitalists, and therefore the State should be required only to make good their faults, their defects, their shortcomings or their mistakes, but not to share, as it should, in the benefits, in the advantages, in the surplus that a properly co-ordinated and efficiently worked insurance business can bring.

More than the shareholders and the policyholders, therefore, do I consider it necessary to pay attention to the interests of the community as a whole, because—and that is my reason for advancing my proposition—insurance acts almost as much as banks, if not more, in mobilising the available liquid wealth of the community, in inculcating the virtue of thrift in helping to safeguard the fruits of that thrift, and in mobilising and utilising those savings of the community which we call the insurance fund or the life fund, whatever you like to call it.

In this country at the present time there are something like 28 lakhs of policyholders in life insurance alone with a total insurance fund amount outstanding of something like over Rs. 600 crores. This is the potential value, this is the value insured, but this gives you very little idea about the amount available, about the potential wealth in the country, which is not to be regarded merely as the private property of the individuals, but also as having a bearing on the economic growth and development and expansion of the country, which measures of this kind, I venture to submit, do not always fully appreciate.

Because I hold this view, because I consider that the stake in this is not that only of the policyholders, or the shareholders but also of the community, I welcome and emphasise and underline the suggestion made by the previous speaker that in the conduct of the insurance business, in the management of the insurance business, we should insist upon some nominees of Government on the Board of Directors of individual companies.

Also of a similar kind is the suggestion made by the previous speaker of an Investment Board so that it does not become merely the private fancy of the

individual managers to assist such enterprises or such of their associates as they think proper to assist. It is not the smallest, not the meanest of the scandals of the present Insurance business in this country that there is a certain amount of interlocking—quite a considerable deal of interlocking—between insurance companies and banks, and not a few of the abuses are traceable to the system of interlocking. Those who are eventually the masters of an insurance company also hold or own banks, or at least a greater portion of their shares, so that, at convenient or inconvenient moments, they can show the holdings in the Banks to be the assets in the Insurance companies, and vice versa. The weakness of either is just slurred over. The Bill tries to remedy, but I think only partially remedy, this defect. But the real remedy will never be attained, in my opinion, unless the entire Insurance business is socialised, unless every element of private profit-seeking enterprise is eliminated altogether, root and branch from this business. This, however, is a view which may not commend itself for reasons of 'practicability' which is the new god invented in the modern industrial age by the present people in power, but it is a thing, it is a principle which I think we will ignore only at our peril.

Being of the view that I take of the nature and the function of Insurance in this country, I suggest that it is not enough to see, for instance, that we guard against too many or too frequent transfers of Insurance businesses. From my point of view, of course, there would be no need of transferring for the simple reason that the State would be the overall owner and manager of such business. But even supposing you tolerate for a while this essential, vital business of the community to remain in private profit-seeking hands; even then no amount of control, no amount of restriction and regulation that you can introduce can be too much, if you have ultimately the interests not only of the proprietors and the policyholders but also of the country at heart. I can assure you, Sir, that the country is not merely superficially or theoretically concerned. If you are genuine and earnest in your desire to develop the resources of the country, if you don't wish to go with a begging bowl in your hands to foreign banks and investors for the purpose of securing assistance, ignoring all the while the valuable assistance within your own country, then I say to you, I say to this House, that no amount of control that you can lay down for utilising the funds available to the insurance concerns could be too much. Nor should we shrink from suggesting the introduction of provisions in this Bill that would make this control not evadable, not avoidable, but effective and real.

It has been said that the suggestion to restrict the maximum holding to five per cent. by any person, or limit the voting to a certain prescribed figure say one per cent. by any shareholder can be evaded. I know that capitalists are much too clever and their legal advisers are much too ingenious not to allow them to get excuses and help and advice by which they can overcome all these restrictions. But at the same time it is a step in the right direction, whose logical fulfilment would only be if you see to it that no transfers are allowed, and that any transfer even indirectly made, even as a matter of trust, should be declared to be illegal and should not be recognised or enforced in any court of law. Sir, a suggestion is made here that it should be declared forfeited—personally I would welcome it altogether. But even if you are not prepared to do so you can and should lay down that transfers of this character will not be recognised if they exceed a certain amount.

The regulation with regard to proxies, the regulation with regard to the possibility of dividing up amongst the members of a family the shareholding so as to retain eventual control in their hands should also be guarded against. And if they have their own ingenious lawyers to suggest to them ways and means of getting out of such measures, let us see to it that the public service is not lacking in such brains as to devise still more effective measures. And if these measures don't succeed eventually, then, in my opinion, that makes

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the strongest case possible for the idea that the time of the private *entrepreneur* is over and the State ought to take it up. That ought to be a sufficient lesson. After giving them a long time, say five, ten, or even twenty years, if you like, they should see that, if the intentions of the law are frustrated in any way, if they are not carried out in the letter and the spirit one hundred per cent., it would be a ground for removing private enterprise from this field altogether.

It is for this reason that I would suggest not only the appointment of directors by the Government as representing the community as a whole, but the Government should select these directors not necessarily from the proprietorial element or even policyholders, who may have some proportion no doubt, but from those who are going eventually to run the business on behalf of the community. When the Banking Consolidation Bill was before the House late last year or early this year, I had the misfortune to make many suggestions of this kind there, which were, of course, turned down. But undeterred by the fate of those suggestions, I am hardy enough to bring forward other suggestions of the same kind. I regard insurance and banking as sister enterprises; and so what applies to one ought to apply to other also. Even if you pass or reject the Hindu Code, and declare our sisters not entitled to inherit from their fathers, I should still insist that in this case the legal analogy should apply fully; and provision should be made in such a manner that the insurance concern may be regarded as a public utility concern, to which the greatest possible restriction or regulation, while it continues in private hands should apply. The workers' representatives selected from those who have become technically qualified and experienced in operating the business would have to act as nominees of the State, or as its servants in the interests of the community, not owing their allegiance or their position to the whim of any particular interest or individual. Cases have been known of insurance companies when by law they were deprived of the services of managing agents, to so convert their managers or change their emoluments as to more than indemnify them for what loss they had sustained in ceasing to be managing agents. That is another scandal which this Bill tries to guard against in a way, by seeking to limit expenses. This is a very welcome feature and I have no hesitation in according my appreciation to it. But devices can be found and are being found (I am not an experienced accountant or auditor to tell you how they can be found) by which such limits are usually defeated and in any case what are known as legitimate expenses can be so inflated that that provision of the law might almost become a dead letter. The greatest proportion of such expenditure goes to what are called policy acquisition commissions. It is true that it has now been fixed and it is proposed to maintain the proportion fixed both for the initial and recurring charges. But there is the possibility of those at the fountain head of the insurance business becoming shareholders themselves and Directors and they would also see to it that their kith and kin are appointed as agents and sub-agents. These are methods by which they can rake off quite a large proportion of the commission from insurance business, which ought to go in the true sense of the term to the community, for it is the community which eventually will provide the absolute security for life insurance business. In any economic crisis or insurance crisis it is the community which is called upon and has had to shoulder the burden of the mistakes, nay worse blunders, of the owners and proprietors of such concerns. I therefore suggest that we need to train up an experienced staff, which will act not from the motive of profit-earning for themselves, or adding to their commission but from the motive of public service, fairly remunerated for the work they do and who will ultimately hold themselves responsible to the community and not to an individual or employer, whose frowns or smiles might make or mar their living.

I would go further and say, as the previous speaker suggested, and I think as the Mover of the motion also noted, that the tendency today is more and more to turn individual or proprietorial insurance concerns into mutual concerns. Where the State is not ready to take over as a whole the Insurance business from private hands and run it themselves, at least the mutualisation of insurance as a co-operative concern would be much more to be preferred than leaving it in any manner of means in private hands. We have in the actual provisions of the Bill many items to which exception might be taken or amendments suggested. But there are one or two matters to which I would like to draw attention now and reserve other points to a more fitting occasion when the Bill comes to be considered clause by clause.

We are providing investment up to a given percentage, 55 per cent. in securities not only Indian Governmental securities but also foreign securities. If I recollect the wording of the clause properly I think that there is even a reference to the approval of the Secretary of State. I thought that the Secretary of State was dead for ever in this constitution and the retention of that phrase and the idea which that connotes is to my mind an utter anachronism which ought to be corrected at the earliest opportunity and I hope the Select Committee will see to it. Apart from that mere terminological matter there are other things.

This country needs, as we know, considerable amount of capital for developing its own resources. It is therefore of the utmost importance that we should have every available pie for investment in this country. Therefore I see no reason why this Bill should allow any margin over 25 per cent. to be invested in foreign securities, not even by permitting it. Speaking for myself, I would say that the funds of the insurance companies on business arising in India ought to be invested only in Indian Government securities, municipal, port trust or other Indian securities, the assets of which are in this country. It is only in that way that we shall provide from our own resources and I for one believe that our resources are quite ample if you know how to develop and utilise them. In this way we shall be able to find our own resources for whatever plans we may have in the matter of industrialising this country or for developing its utilities, services or amenities or in the matter of improving the standard of living of the people as a whole, of every single individual in the country and not merely be content with top-dressing or placing the coping stone of the edifice, which are meant for show. The foundation is at the bottom on which the whole edifice rests and if you do not look to the interest, the safety, the improvement in the standard of living of what I call the foundation stone of this country I am afraid all your measures will be found wanting.

Next to security and expenses there is therefore this problem of utilising the entire insurance business from the point of view of minimising the risks, minimising the contingencies, so to say, for which insurance becomes necessary. While society remains founded on the basis of individualism while each individual has to make his own provision for himself and his family.

4 P. M. for old age, accident or invalidity, naturally the concern would not be so widespread as it very well might be. A few minutes ago, I mentioned the figure of the total policies outstanding at the end of 1946 as somewhere about Rs. 28 lakhs. Rs. 28 lakhs is less than one per cent. of the total population of the country; it is less than 5 per cent. of the adult population of the country; it is less than 10 per cent. of the earning population of this business. Therefore, I suggest there is infinite scope still for the improvement of this business. It can only be improved if you see to it that it is no longer the happy hunting ground for private profiteers, but becomes a public concern, a real social utility, worked, operated, owned and controlled by the community, in the interests of the community and through the representatives

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of the community. If society becomes rationalised, if the whole social system becomes more equitable and more just as I conceive it, then it seems to me that a considerable form of insurance would be unnecessary altogether. Insurance of health would become unnecessary if all the contingencies of life are guarded and provided for the community as the sole responsibility of the State towards its citizens. Unfortunately, that intelligent and generous attitude towards its citizens has yet to be fully realized and still more so to be implemented. Therefore, while you allow any item of insurance business—whether it is life, health, work, employment or unemployment, accident or any other—to be so organised and controlled as to be the ultimate responsibility directly of the representatives of the State and corporations or authorities like the Controller-General of Insurance as provided for in this Bill, they should not be charged with only the function of superintending or supervising detailed operations. They must have a wider vision. They must be given their function from a standpoint such as the one I have been advocating, so that they are not merely mechanical auditors of just actual funds or persons who see to it that on the actuarial grounds the return is 3:2798 or 2:911 per cent. or whatever it may be per cent. This is not the function, as I conceive it, of an authority representing the community like the Controller-General. Such authority should, acting on behalf of the community, see to it that that portion of the country's wealth which is available in the savings of the people is extended and increased by very well known, tried and tested devices and that it is not only safely invested but that it is available at any time that the people may require, not merely at any time the individual concern may require. It is not merely that the insurance business is conducted even today by joint stock concerns which no doubt loom the largest, but as the previous speaker pointed out, they are a very vocal and powerful lobbying interest which has been approaching almost every one of us, perhaps, and many of us have been very smoothly treated by their trained diplomatic ways of softly modulated tones pouring into our ears the wisdom of accumulated profiteering that they have got with them. But while not quite immune from the influence of these lobbyists, I should like to warn the House that there is quite a considerable element of insurance business not in the hands—and thank God, luckily not in the hands—of private profiteers, such as for instance the Provident Fund. Provident Fund, both of individual and public servants is rapidly mounting. It is essentially a form of insurance, a method of compulsory provision for one's future. Insurance in the ultimate resort is nothing but the saving of the people voluntarily made and thriftily employed against a rainy or a rainless day. In that view, there are many other ways in which people are helping to save for themselves, not only to safeguard but to utilise and develop their savings in such a manner that the fruits of their yield may be progressively increasing every year. In this view, the present Bill meets only a small proportion. I hope it will not be too late for the Select Committee or later on for this House to bring a wider vision into this Bill, to infuse a more generous and a more national spirit into the enterprise and so to remodel it, so to improve it, so to amend and alter it, as to make it really a social utility and an agent to minister to the general well being of the community.

With these observations, I commend the Bill.

Pandit Govind Malaviya (U.P.: General): I wish to congratulate my esteemed friend, the Commerce Minister for the speech which he made this morning and especially for the intention of creating a Council of Insurance Companies to regulate their functioning. I do not wish to take the time of the House unnecessarily with a number of details of the Bill which will come up before us later on. There are just one or two points about which I feel that I should place before this House for its consideration certain aspects of the proposals which are probably deserving of its attention.

I shall come straight to the points to which I wish to refer. Whether insurance companies in India are nationalised or whether they are allowed to function as private enterprise, the point of view which I wish to submit will hold good equally in either case. I wish to refer to the provision for the limitation of expenses which has been included in this Bill and I wish to do so from a purely practical point of view. I do not know if many Members of this House are familiar with the working and with the problems of insurance companies. The obvious argument for the limitation of expenses seems to be that those who are in charge of insurance companies should not be able, if they so wish, to squander public money or in any way to jeopardize the interests of policyholders. Nobody can oppose any provision which seeks to secure these two very desirable objectives. But what seems to be obviously intended to secure the interests of the policyholders may, it seems to me, actually cut at the very root of insurance companies in this country. If I may refer to something which is of a private character, I might mention that the motive of those who desire this provision for the limitation of expenses was probably not to introduce this limitation on expenses in life companies as much as it was to introduce it with regard to general companies.

The reason for that, probably, was that in India general insurance companies so far have not been able to capture all that business of general insurance from foreign companies yet. In the field of life insurance, as we all know, foreign insurance companies today are able to write only a very very small fraction of the life insurance business in India. That is not the case with regard to general insurance. Now on the side of general insurance there are a few companies, a few top companies, which are able even today to carry off the field to a very large extent, as against other smaller companies. Now, obviously, the interest of these few top companies is that if there is a limitation of expenses, the result would be that most of the smaller companies will find it impossible to operate under those circumstances. The result will be that the total general insurance business of this country will practically become the monopoly of one or two companies. I wish, Sir, to request the Members of this House to give careful thought to this aspect of the matter. If this limitation of expenses is brought about on the general side the result will be that only a very few companies—I do not wish to name them, but I can almost say one or two companies only—will be able to function and will almost have a virtual monopoly of the entire general insurance business of this country. I am sure nobody will consider that a very desirable prospect. Even today, Sir, for anybody who is at all familiar with the doings in the insurance world it is well known that these top companies are able under existing circumstances to dominate those other smaller companies. Why is that so? Supposing there is a very big general company which writes more than 50 or 75 per cent. of the total Indian general business. Now every other small company has to go to that company for re-insuring part of the risks it takes. In other words every smaller company depends upon this bigger company for re-insurance business which it does out to these smaller companies. It is possible, therefore, Sir, today for one of these bigger companies to choke out the smaller companies at any time if they wish to do so. As a matter of fact—I do not know how far this is correct, I cannot vouch for its accuracy—I was told by some people that the opinions of these smaller general insurance companies have actually been coerced by some of these bigger general companies with regard to the Bill which is before this House—regarding this provision for the limitation of expenses. I was told that some of these bigger company people told these smaller company men that if they did not support this provision for limitation of expenses they would see to it that these smaller companies should not be able to function as well as they otherwise might. As I said, I cannot vouch for the accuracy of this statement, but this has been said to be by very responsible people from the insurance world.

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Now, Sir, the result of this limitation of expenses, therefore, will be that in India on the general insurance side there will be only one or two or a few companies left at the top which will be able to monopolise the entire business of the country. I submit it will be a very undesirable thing from all points of view.

Now, I was told that some years ago when some of these big company people wanted that the method of limitation of expenses should be enforced for general companies they approached some very prominent Members of this House of that time. Those Members actually asked them to clear out because they said that nobody would think of the limitation of expenses for general companies. Then they approached some very eminent lawyers and were advised that if they wanted the limitation of expenses for general companies to be introduced the only way for them to proceed was to work up public spirit in favour of limitation of expenses of life companies. They were advised that with regard to life insurance companies the average public mind was panicky, was nervous and was anxious to do everything possible to secure the interests of policy-holders. They were, therefore, advised to work up for the limitation of expenses of life companies so that in the appendage the method of the limitation of expenses for general companies also might be introduced. That, Sir, I believe is the story of the genesis of this proposal for the limitation of expenses of life insurance companies.

Now let us look at it on its own merits. If the few big companies in this country whose people were largely, if not wholly, responsible for framing the original provisions of this Bill, were subjected to the provisions which this Bill contains in that direction today, I dare say not one of these companies would have been able to stand them. The biggest companies in this country are the Oriental, the New India and a few others. If these provisions of the limitation of expenses were applied to any one of these big companies in this country at the beginning of their career, not one of them would have been able to survive and to build up the magnificent institutions which they are today. Therefore, it is no use our thinking of applying to others what would have been an impossible proposition even for our bigger companies. The result of this limitation of expenses will be that most of the smaller companies will find it impossible to carry on and in a couple of years or more either they will have to close their doors or they will have to amalgamate with bigger companies. What will be the result? Insurance business, which is one of the most essential and important businesses of any nation will tend more and more to become confined in a few hands. It will lose the advantage which any business has of fresh impetus, of new people, of new ideas and new experiments. It seems to me therefore, Sir, that it will be a retrograde step for us to introduce this method of the limitation of expenses for insurance companies. We are told that unless this limitation is introduced, it may be possible for the management of insurance companies to fritter away or to waste funds of the companies thereby injuring the policy-holders or the investors. My submission to this is that there are provisions in this Bill itself which are ample safeguards against that danger. In this Bill there are provisions which will make a thing of that kind happening impossible. This Bill lays down that if any officer of any insurance company draws a salary of more than Rs. 5,000 a year, that fact should be reported to the Government. That means a salary of about Rs. 400 a month. Now, the provision is that if anybody in any insurance company gets more than Rs. 400 a month that fact should be reported to the Government. Then this Bill introduces a system of putting a ceiling upon the commission payable to agents, to organisers and chief agents, etc. Where then is the danger of the possibility or the serious danger of the managers of any company frittering away or wasting the funds of a company? And in actual practice, how many

cases of that nature have we had in this country? Very few. If therefore, danger of this type, even after these provisions are passed, does exist to a infinitesimal degree, will it be wise for us to safeguard against that development to an infinitesimal extent by creating a provision which will cut at the very root of the growth of insurance business in this country? We know that the people of this land are still not very insurance-minded. The number of people who have gone in for insurance in this country is negligible. They are very small. Prof. Shah just now told us that it is less than 1 per cent. Now, is it time for us yet to put down provisions and regulations which would restrict the growth of insurance in this country? Sir, when the cheque system was introduced in the commercial world, a great deal of opposition was voiced against it, because it was said that people would abuse that system, would issue faked cheques upon banks, would deceive people and that therefore it should not be started. But everybody knows that that small risk was taken and rightly so and that the fact that that risk was taken proved of inestimable help in the growth of commerce and business and trade. Similarly it may be said that there is a remote theoretical possibility of somebody misbehaving somewhere and somebody acting incorrectly and that the interests of someone somewhere in some remote part of the country being jeopardised. To protect against that possibility, is it right that we should take a step which will tend to confine the insurance business of this country to a few companies, to a few hands and make it impossible for a large number of local, healthy and useful insurance companies thriving which would carry the message, which would explain the advantages and which would secure the co-operation of the people of our villages and of our small towns for going in for insurance? I am quite clear that it will be a retrograde step. I therefore beg every Member of this House to give careful thought to this matter.

I would go into further details and the implications of this Bill, but I shall not do so because, as I said, I want the Members of this House to look at the fundamental aspect of this proposal, namely that it will confine the insurance business to the hands of just a few big companies. And, as I said, if the history of these big companies is looked into, it would be proved beyond doubt, that they too could not have thrived or succeeded if at the commencement or within a few years of their commencement, this provision was applied to them. That should prove the fact that this provision will be inimical to the growth of the business of insurance in this country. I hope, Sir, the Members of this House will go carefully into this aspect.

There is another matter also to which I would like to refer very briefly. I have in mind the provision that at least 55 per cent. of the funds of an insurance company should be invested in Government Securities.

Shri R. K. Sidhva (C. P. and Berar, General): Not 55 per cent. Only 25 per cent. in Government Securities and 35 per cent. in approved concerns.

Pandit Govind Malaviya: What I wish to submit is that in this matter also we should on the one hand be careful to see that the funds of the insurance companies should not be lost and, on the other hand, we should make it possible for the workers and managers of insurance companies to invest funds in sound investments which should be able to yield much better returns and interest than the Government Securities and Government-approved investments usually give. It is for this I say that if the returns which insurance companies receive on their investments are small, the only result will be that the rates of their insurance will have to be increased. Therefore, the moment we make it impossible for them to earn better returns, we shall be making the people of this country pay higher premia than they would otherwise have to pay. As I said about the previous point, insurance being not still very prevalent in this country and it being extremely desirable that it should expand, this step again

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will be a retrograde one which will make the possibilities of the spread of insurance less than it would otherwise be.

A question has just now been asked by my friend, Mr. Sidhva as to what would happen if these companies became bankrupt. If he had listened to what I said previously, possibly he would not have asked that question, because, as I said, on the one hand I want that we should make provisions to ensure that the investments of these companies should be made only in the soundest of investments....

Shri R. K. Sidhva: What do you mean by soundest?

Pandit Govind Malaviya: The soundest of investments do not lie in the field of Government Securities alone. Mr. Sidhva should know that there are many other forms of investments which are almost as good as Government Securities which do give a much higher return.

Shri Mahavir Tyagi (U.P.: General): Why not in the share markets?

Pandit Govind Malaviya: Another friend is referring to share markets. I am sorry that he thinks that the only other possible source of investment in this world beyond government securities is the share market. I sympathise with him. I therefore submit that in the interests of the spreading of insurance in this country, in the interests of providing all the facilities possible to people who want to go in for that business, we should very carefully consider this aspect of the matter and if possible along with such provisions as may be needed to ensure that the funds of insurance companies are not invested in risky and doubtful investments. We may provide that they may be invested to a much greater extent than the Bill provides in investments other than Government securities, the government approved securities. These are the two points about which I wished particularly to draw the attention of Members of this House, and I hope that they will decide about them not from any other consideration except in the interests of the insurance business and the spread of the insurance spirit in this country.

Shri R. K. Sidhva: Sir, I have always held the view that all public utility concerns should be nationalised and I consider that banking and insurance are public utility concerns. I would really have wished that before the Bill, which as the hon. the Mover has stated has been moving from the year 1946 from pillar to post, was brought before the House, he had given serious thought to nationalising the insurance business in this country. I say that because in insurance and banking the greater part of the finances of the public are involved, and particularly in insurance the money of the poor man, the lower middle class man and the middle-class man, is greatly involved. Very few rich people go in for insurance, and therefore it becomes a necessity for the Government to protect this class of poor people. During the last five years, Sir, some big—I should say very big—and some small concerns have changed hands. Nine companies have changed hands, and if I were to give the names, the House will be surprised to hear that these companies have been acquired.

Shri Mahavir Tyagi: Changed hands means?

Shri R. K. Sidhva: It means that men who are rolling in money, who are rolling in wealth, men who have crores and crores of rupees have purchased these companies. This is the meaning of changing of hands. Sir, that is the position of the insurance companies today. As I stated, within five years, nine insurance companies have changed hands, and in the case of one of the companies which has been purchased by an industrialist, sixty lakhs of rupees has been invested in some other concern of his relative or friend. I have got the names here, but I would not give them, so that Members may know that

I am not speaking merely hypothetically but that I am giving facts. If they want, I am quite prepared to give them the names if they come to me. I can give out the names but decency demands and the interests of the insurers demand that I should not disclose their names. Sir, one of the companies has given a loan to a bank which has been told by the Reserve Bank that it should not take any deposit. That means that that Bank is going to collapse. When an instruction like that is given by the Reserve Bank, it means there is something very wrong with that Bank, that the depositors have lost confidence in that bank. It has happened in many cases. About sixty lakhs of rupees are in that bank. That is the result of the change of management of these various companies.

An Honourable Member: What is the name of that Bank?

Shri R. K. Sidhva: It is the Discount Bank. Sir, this is the state of affairs. My friend, Prof. K. T. Shah, rightly stated that six hundred crores of rupees of the policy-holders' money are invested in insurance companies and if there is anything that could be nationalised for which no foreign currency is necessary, for which no foreign technicians are necessary, for which everything is available in the country, it is insurance, and we can see that six hundred crores of public money are safe in the hands of the Government, and 75 per cent. of this could have been invested in Government securities and the rest in other good securities. My friend, the previous speaker, Pandit Malaviya, said that even 25 per cent. he considers a big amount for investment in Government securities. He says that realisation in this case is very low and so he says, let the money be invested in other concerns where the realisation is greater. Is insurance also like other business concerns which should earn something by way of profit? My friend forgets that during the last five years, several concerns have been taken over. If I give out the names, he will be surprised to see that they are only three of our big industrialists and capitalists.

Dr. P. S. Deshmukh (C.P. and Berar: General): Since they are so few, why don't you mention them?

Shri R. K. Sidhva: That is the position. My hon. friend, the Mover, stated that it was suggested that this should be nationalised, and he said at the end of his speech that while they realised that this should be nationalised, in the present circumstances they cannot but achieve the result by a mutually co-operative system of insurance. That will not at all suffice nor would satisfy any person of the reasonableness of the Government's decision in this matter. The Government has got insurance business for their employees, and there the working expenses are seven per cent., and the working expenses of private companies are 27 per cent. You can realise therefore that if it is managed by the Government, we can do it at a much cheaper rate and we can bring down the rate of insurance premia, because they will not be swallowed up by the huge profits taken away by the Managing Directors. I know that share-holders are not benefited in insurance companies. In the first seven years they do not get any dividends.

Shri B. Das (Orissa: General): May I know whether Mr. Sidhva knows that the Hindustan Insurance Co. of Calcutta have not paid any dividends for the past seven or eight years?

Shri R. K. Sidhva: I know about the Hindustan Co-operative Insurance Co. to which my friend has made a reference. The major portion of the profit goes to the managing directors and I know in certain cases the managing director has earned three lakhs of rupees yearly by way of commission and by way of salary. That being the state of affairs, Government can run more efficiently and more cheaply in a concern like this where they could give benefit to the small man who insures. May I ask who does not know that this is really a saving that the

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poor man does from his monthly income? I know Sir, that a large number of persons earn only Rs. 100 a month in these days. He keeps aside four to five rupees as a premium on Rs. 1,000 policy for his hard times. I have no statistics but if we are to find out, I can really tell you that 40 per cent. of such policy-holders will be found among the poor people who really save for the benefit of their family after their death.

Now what is the amount for a thousand rupees policy, Sir? I know in a life policy a person pays on an average Rs. 1,600, that is the whole life. He gets only Rs. 1,000 and if you take the compound interest according to the statistics, which I have calculated roughly, it will come to Rs. 4,600 for nearly 25 years that he has lived. This is the amount by way of interest and that is being benefited by the insurance companies and if it is nationalised, all this money will go to the benefit of the insurer and to the State. I, therefore, could not follow, Sir, why particularly our Government should not take up this matter themselves. As far as industries are concerned, I know, Sir, that nationalization of industries has been put into cold storage for the time being and I do not dispute that just now because there are many complications regarding that. I do not want to discuss it nor do I want to say anything for nationalization hereafter because I know there are certain difficulties, but I cannot understand in this matter why insurance which will bring relief not to the class of people I referred to but will bring a lot of wealth and money to the State should not have been considered and I do feel that the Select Committee should not dismiss that point. They must consider and tell the hon. Minister during the discussion that this Bill will have to be taken back. It does not matter if it takes one year or more but we want to nationalize it. Let the hon. Minister know what is the view of this House. Member after Member excepting my hon. friend Malaviya were all in favour of nationalization of insurance. I am talking of life insurance only. I do not agree with the view of Mr. T. T. Krishnamachari that there should be no control on general insurance companies, while I entirely agree with him that there is a material difference between general and life insurance. General insurance is something like business, there is no doubt and I entirely agree with what he stated, but I do not agree with him that there should be no control. The general insurance companies cater for fire insurance, the accident insurance, the marine insurance, the motor-car insurance and people would like to protect their interests; so general insurance is a kind of insurance which necessitates a person to insure for his own benefit and is intended for a class of people for whom you cannot combine with a life insurance. Therefore in the general insurance as regards the commission and other conditions which are imposed, I agree that they should not be so stringent as in the life. Coming to the commission, Sir, who does the business of life, Sir? The small middle-class people do it. He goes to a person, he coaxes him, he induces him, he tells the advantages of insurance and after a great deal of trouble he gets a policy of Rs. 1,000 or Rs. 2,000. (Shri Jaspat Roy Kapoor: He mostly goes in the night). Well, my hon. friend, Mr. Kapoor has got a class of people who go by night. They have to fill their stomachs and do honest work. They do this after their work and they go out at night for canvassing for this business. I honour them, Sir. What harm is there? (Shri Jaspat Roy Kapoor: I appreciate their good work.) I thought my hon. friend was making a sarcastic remark. This class of people really could not balance their family budget and therefore as a side business they go and do honest business and this Bill is going to cut down their commission. The interests of these lower middle-class men should be protected, Sir. Some officials in the company take away the commission of these workers—you may call them field workers or small agents—they are responsible; they are the backbone of an insurance company and rightly so. I have some experience of this and these are the people who

bring wealth to the insurance company and they are being treated most unfairly by the Insurance Company. On going through the provisions of the Bill, I feel that their interests are not very well protected and I, therefore, desire that the hon. Mover will bear in mind these people whom they call 'canvassers' in popular term. The chief agent is appointed, Sir, and he gets an over-riding commission. He sits at home, the field worker works, the canvasser works, the agent works, over and above the commission chief agent gets the company pays him additional commission. They call these canvassers 'dummy agents', but the Chief Agent is a dummy agent rightly-speaking who gets an over-riding commission and the person who does the actual work is deprived of his rightly earned commission. Therefore, Sir, as far as the life insurance agents are concerned, the Select Committee will kindly see that their interests are very well protected and that their commission should not in any way be reduced.

Now, Sir, it is stated—I have gone through the figures—the 90 per cent. of the first premium is spent in over-head expenses of an insurance company and 20 per cent. of the subsequent premium. I do feel in the interest of the policy-holders that the return which agents used to get, before this act was enacted, and I do not exactly remember the year—was 5 to 7 per cent. on their renewals. I consider 7 per cent. a high commission. It has been now reduced to 2½ to 3 per cent. The earning of the agent depends upon these renewals because it has been a practice that on the first premium also the competition is so great that he has to pay away the full amount that he has earned to the insurer and unless he does it, it is not possible for him to secure the policy. I do not approve of it. It is not fair on the part of an insurer to demand from the well-earned commission of an agent the commission which is due to him. Therefore, in that respect also a strict provision should be made in this Act by the Committee.

Now, it is needless to say how backward we are; we are talking of compulsory saving. This insurance is compulsory saving and I was trying to point that unless Government take up this insurance, it is not possible to expand in the field of insurance. In America 80 years ago the average sum assessed per head of population was Rs. 12, today it is Rs. 3,375 and in India it is Rs. 16 today. You can understand how backward we are. This insurance business—leaving aside the question that it has not fully entered into the cities—requires to go into the villages. People must be educated as to what is saving and as to how much they can save by means of insurance. Generally it is a thousand rupees insurance. Though some of the co-operative societies are having five hundred rupees policies most of the policies are for thousand rupees and above. I desire that there should be policies of hundred rupees. Why should there not be provision for a policy of hundred rupees?

Shri T. A. Ramalingam Chettiar (Madras: General): We have got hundred rupees policies.

Shri R. K. Sidhva: I am glad. Some of them have for hundred rupees, but very few of them. I know that co-operative societies are doing much beneficial work to the public and I give all credit to them. But I did not understand when the hon. Mover stated that this Bill seeks mutual co-operation. What is the meaning of 'mutual'? It can only mean benefit to the policy-holder as well as to the insurance company. But the policy-holders get hardly 1 per cent. benefit and 99 per cent. of the benefit is taken away by the insurance company. Is that the meaning of the word 'mutual'? I want to know what he meant when he said that instead of nationalising it he is adopting this course.

The Honourable Shri K. O. Neogy: There are mutual companies which are managed by the representatives of the policy-holders and there are no capitalists or directors representing capital in it. That is what I said.

Shri R. K. Sidhva: Sir, I think it is something like a "Co-operative Bank". There is a Mutual Insurance Company in Bombay. The name is there, but thereby it does not become mutual. Mr. Das quoted the Hindustan Co-operative Bank. The word 'co-operative' is there. I think that is not the sense in which the hon. Minister meant it. If on the other hand it is actually 'mutual', I would welcome it.

The Honourable Shri K. O. Neogy: Well, that is so.

Shri R. K. Sidhva: The idea may be so, but in practice it is not so.

Sir, I was suggesting that this investment is a very important matter. I am glad about the provisions made in the proposed Sections 27 and 27A. But Section 27A provides for approved investments. And approved investments range from (a) to (p) in that Section. In item (n) it is mentioned "fixed deposits with banks included for the time being in the Second Schedule to the Reserve Bank of India Act, 1934". I would not consider investment in all the scheduled banks to be a secure and sound investment. We know that in this very House criticism has been levelled against so many scheduled banks having failed, and although there is provision in the Act that there should be periodical inspections by the Reserve Bank, no effective measures have been taken in that direction. Day before yesterday in answer to my question about the failure of the Exchange Bank of India the hon. Minister stated that Rs. 2½ crores of the depositors' money is involved. He was not in a position to give any further information, but we are surprised that big scheduled banks have also made their investments in pure speculation—in share speculations.

Shri Suresh Chandra Majumdar (West Bengal: General): Exchange banks or scheduled banks?

Shri R. K. Sidhva: Exchange banks are scheduled banks. But the Exchange Bank of India is the name of a Bank in Bombay—Exchange Bank of Africa in India. That bank is under liquidation and the High Court of Bombay has taken control of it. I therefore feel that Government should not have given so much facility and elasticity to the insurance companies for the purpose of investment of the public money, because that is the policy-holders' money—the share-holders' money is very little. I therefore feel that the Select Committee should thoroughly go into Section 27A which is a new section. I welcome new Section 27 which is about investment of assets. I do not dispute that there is some safeguard. But, as I said, Section 27A covers many items which Government considers to be 'approved investment'. I feel it would be dangerous if all sorts of concerns are to be declared as secure or sound concerns for the purposes of investment of the policy-holders' money. This is one of the points which I would like the Select Committee to consider.

In regard to medical examination I want to say a word. In the appointment of a medical adviser to the insurance company generally the agent's voice prevails. And I have seen that some of the doctors who examine the cases do not give them that attention which they deserve in the interest of the policy-holders. I therefore suggest that no medical adviser should be appointed at the suggestion of an agent. There should be properly qualified men. I know that for sums of Rs. 2,000 there should be an M.B.B.S. and for sums exceeding Rs. 10,000 they appoint a Civil Surgeon. I know the rule is there.

An Honourable Member: It is not there.

Shri R. K. Sidhva: Well, the convention is there. It depends on the company and varies from company to company. I want to be stringent in this

respect. I want that the medical examination should be strict and that there should be great vigil in the appointment of medical advisers.

In regard to policies there are companies who have got no uniform standard of premiums. Similar is the case with respect to terms governing the lapse of policies. Some companies have rules that the policies of those who do not pay their premiums after two years automatically lapse. Some have rules that after four or five years they have to 'surrender'. Different rules prevail in different companies. Sometimes the policy-holder is not able to pay his premiums due to his family circumstances. Some good companies do make concessions and allow them to pay combined premiums of the arrears. But other companies do not recognize that system. Some companies do take advantage of the lapse system and the amounts which may have been paid by way of premiums by these poor policy-holders have been credited to the companies' accounts. I therefore desire that in this matter also the Select Committee should carefully consider it and see that uniform premiums are levied by all companies and uniform rules prevail regarding lapses, surrender, writing off. There should be uniformity in regard to all these things. Why should any company enter into a competition with another company in this matter at the cost of the policy-holder? The result is that the policy-holder suffers. He is induced to go to some company feeling that the premium is less and that there are better concessions and better kind of facilities. With that natural feeling that he has to pay less he goes and insures in that company, little realising that his money is not very safe in that company. I therefore desire that there should be uniformity in all these respects.

I still hope that the Select Committee will consider the main point of nationalising the life insurance business. Let general insurance be left to business-men—I do not worry about it—but that should also be controlled by Government necessarily. But in regard to life insurance I hope the hon. Minister will consider the question. Such opportunities do not come often. Therefore, when this opportunity has come I hope Government will take this matter into consideration. There are no difficulties in the matter of nationalisation. In the interests of the country, in the interests of the State, in the interests of the people and of the policy-holders this insurance business should be nationalised.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Tuesday, the 6th December, 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS.)

Tuesday, 6th December, 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)

11-46 A.M.

PAPERS LAID ON THE TABLE

HALF-YEARLY STATEMENT OF LOWEST TENDERS NOT 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. (See Appendix IX, annexure No. 17.)

INSURANCE (AMENDMENT) BILL

Mr. Speaker: We will now proceed with legislative business, viz. further consideration of the motion of the hon. Shri K. C. Neogy that the Bill further to amend the Insurance Act, 1938 be referred to a Select Committee.

Shri Jaspat Roy Kapoor (U. P.; General): Sir, as indicated by the hon. Commerce Minister, this Bill, or rather this legislation, has had a chequered career. It has been pending before the Central Legislature in one form or the other for the last about half a dozen years and we can, therefore, easily appreciate the anxiety of the hon. Commerce Minister to rush through this Bill in this session so that it may be placed on the statute book as soon as possible.

While I appreciate his anxiety and while I do agree that it is an important measure and must be placed on the statute book as soon as possible, I think it is necessary that the Select Committee to which this Bill is being referred, should very carefully scrutinise and analyse all its provisions and incorporate in it necessary amendments and improvements. But, Sir, in whatever manner the Select Committee may attempt to improve it, whatever useful amendments it may incorporate in this Bill, I am afraid, even then, it will not be possible for this Bill to be so improved upon as to meet the needs of the situation. I am of the view that nothing short of complete nationalisation of insurance in this country will meet the needs of the situation.

As I advocate the nationalisation of insurance, I must say that I am not one of those who is over-enthusiastic in the matter of nationalisation of many of our industries in this country. I am rather of the view that the less we talk

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about nationalisation in our present economic condition, the better it is for the country, because we have neither the necessary resources to nationalise all industries, nor have we perhaps the necessary personnel to run the many industries which may be nationalised. I think, therefore, as we have to attend to many other more important problems, it would be wise on our part not to be very frequently in season and out of season, for reasons and without reasons, crying the slogan of nationalisation. It has made our capital shy; it has not helped to bring about new industries in the country; and even the few industries that we have are not producing as much as they ought to. I think the unnecessary cry of nationalisation very frequently has been, to a very large extent, the cause of this. Even holding such a view as I have just expressed with regard to nationalisation, I think Insurance is certainly one of those industries which do need nationalisation immediately. The time, I think, is ripe now for the nationalisation of this industry.

As I advocate the nationalisation of Insurance, I do not mean to suggest for a moment that the existing Insurance companies owned by private companies or public companies have not rendered a useful service to the country. We must appreciate the very valuable service which has been rendered by these companies to the cause of Insurance in India. They have been the pioneers in the field and these companies, big and small, have carried the message of insurance all over the country. Particularly, the small Insurance companies have done very useful work because, whereas the bigger Insurance companies used to cater for the richer classes of people, many of the new small Insurance companies, started during the last twenty years, have carried the message of insurance even to the rural areas. We must therefore appreciate and place on record our appreciation of the very good services which these Insurance companies have rendered to this country. As a matter of fact, it is because of the very useful work done by these Insurance companies that it is possible for us now to think of nationalising this industry, and if ever, sooner or later, we nationalise this industry, the credit for creating conditions and preparing the ground which help us to nationalise this industry must go to these companies.

But, Sir, until we are in a position, until the Government is in a position to nationalise this industry, something has got to be done to effectively control it. In the matter of control, I am of the view that while necessary steps should be taken to effectively control this industry, the control should not be too wide and should not be unnecessarily drastic. Only that much amount of control should be exercised as is just necessary and sufficient to meet the needs of the situation. This Bill aims at effecting a control over the industry and certain very useful provisions have been incorporated in it. But, I am afraid even those provisions do not go in some cases far enough to meet the requirements of the situation. One of the controls suggested in the Bill is the control of the capital structure of the company. It is proposed that it should not be permissible to any person to own more than five per cent. of the share capital. I do not think that this restriction will serve the purpose which the hon. Commerce Minister has in view. As was rightly pointed out by my friend Mr. T. T. Krishnamachari, it is not difficult for any financier to find out say about eleven persons who may be all his friends and relatives or who may be his direct dependents, or who may be persons who are absolutely under his control, each to own five per cent. of the share capital of the company. These persons may, in some cases, be *benami* holders of the share capital. It will therefore serve no useful purpose to have this restriction only. In some cases I think it may not be even desirable to restrict the ownership of capital in the hands of a few. If capital is owned by a very large number of shareholders, each shareholder having a very small interest in the share capital, such small shareholders are not expected to take much interest in the affairs of the company as their

stake is not much and a person whose stake is much is expected to take much greater interest in the affairs of the company. Therefore while on the one hand this restriction will serve no useful purpose, on the other hand it is likely to have a very undesirable effect in the affairs of the company. An alternative suggestion was put forward by Mr. T. T. Krishnamachari yesterday, that there may be some restriction with regard to voting rights. While I admit that may be an improvement on the present suggestion, even that will not serve the purpose. For it will not be difficult for any financier who is so inclined to have a number of persons who may be ready or who may be always at his beck and call to come to the meeting to vote for any particular proposition which he may put forward or they may send their proxy for voting in favour of that particular person. Therefore neither the suggestion as embodied in the Bill nor the suggestion of Mr. Krishnamachari would serve the purpose. We must go to the root of the cause as to why is it that financiers want to have complete control over the insurance company. It is not merely for the pleasure of it—but it is because of the huge amount of money that is always in the coffers of an insurance company. They want to get control over it and thus be able to make full use of it proper or improper. Therefore if we go to the root of this question we have to come to the conclusion that we must take such measures as may not leave any inducement for the financiers to get control over an insurance company. If therefore we incorporate in the Bill such suggestions as may limit the scope of investment, then of course hardly any inducement will be left for unscrupulous financiers. In this bill attempt has been made to place restrictions regarding investment but I am afraid these are not enough to ward off unscrupulous investors. In the first place I see no reason why whereas in the former Act the provision was that 55 per cent. of the funds of the company should be invested partly in Government Securities and partly in Government Securities and other approved Securities, this 55 per cent.

12 Noon. should now be reduced to 50 per cent. only. It may be said that even though it is so, with regard to the balance of the funds there is a healthy provision incorporated. True, it is so. It is well and good so far as it goes. The balance of 50 per cent. should according to the Bill, hereafter be invested in approved investments but then the list of approved investments is such a huge one that it leaves ample scope for bad investments also to be made. I would therefore submit that if we mean to have effective control over insurance companies, if we mean to have effective control over them regarding investment of their funds, we must take courage in both hands and must specifically provide that all funds of the insurance companies must necessarily be invested in Government or approved securities. It is to our regret—I am sure everyone of us will regret—that one of the provisions in the Bill is that approved investments will include U.K. Securities also. I know so far as approved Securities are concerned, U.K. Securities shall cease to be so after four or at the most six years. This is a welcome provision but then with regard to investment of the balance 50 per cent. of the funds of the Company, they can be invested even in U.K. Securities. I am in complete agreement with the criticism levelled against this clause in the Bill by my hon. friend Mr. K. T. Shah. It is not always easy for us to agree with him but then on this particular occasion I think everyone of us can easily agree with him that this provision in the Bill is one to which none of us should agree and I hope when the Bill goes to the Select Committee, the members thereof will see to it that this provision is deleted. Why do we want our funds to be invested in U.K. Securities? I see no logic behind it and I think it will be something absolutely against the interest of our country. Our Government needs money in any amount. Many of our nation-building activities have been put a stop to because we have not the necessary funds. On an occasion like this when the economic and financial situation of the country is like this, we see no reason

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why we should be generous and why we should have any soft corner for U.K. Securities. I therefore submit that all the funds of insurance company of course except those that are necessary for having Head Office Buildings and for advancing loans against Insurance policies, the bulk of all these funds, must be invested in Government and approved Securities. I know that my hon. friend Pandit Govind Malaviya said yesterday that he would not like any undue restrictions to be placed on insurance companies in the matter of investments. Pandit Govind Malaviya, we know, represents an important insurance Company but of course it is comparatively of recent origin. We can surely sympathise with him when he finds his insurance company or others in the same position and considerable difficulty in having remunerative investments, if either the present restriction in regard to investments or my suggestion is adopted. True there may be some difficulty but it would be better that even small insurance companies do not fall into the temptation of earning too high a rate of interest. Every sound financier or businessman knows that the higher the rate of interest the greater the risk. It is an elementary economic proposition which everybody is expected to know. Yet in one's weaker moments he falls a prey to the temptation of investing his money in business which may for the moment appear to him to be more remunerative than others. While such yielding to temptation may be permissible in other business, certainly in a business of the nature of insurance such temptation should not be allowed to prevail. The policyholder wants absolute security for the money he has invested in an insurance policy. He puts his small savings in the insurance policy in the firm belief that in an advanced age, when it may not be possible for him to earn his living, he will be able to fall back upon his insurance money or in the event of his death his dependents will not be left stranded. What he cares for is the security of his policy money and he does not care very much for the profits that may accrue to him or for the raising of the insurance fund by being invested in remunerative investments. We should presume that it is against the wishes and interests of the policy-holder that any money of the insurance company should be permitted to be invested in any risky ventures.

Then, as I have said, the most important reason why all the money of an insurance company should be invested in Government or approved securities is that these insurance companies must feed the Government and provide it with the necessary and sufficient funds to carry on their nation-building activities, which will lead to the greater prosperity of the country. Therefore, I submit, we should not listen to the cry of any insurance company in this respect. If we are not in a position to nationalise the industry altogether or immediately, at least we must take this necessary step. If we do so many other controls which are proposed in this Bill may not even be necessary, because if all the money is to be invested in government securities, there will be practically no inducement left for any unscrupulous financier to get hold of an insurance company.

The other control which is suggested and which is of course necessary is in regard to expenses. Even here I would submit, as I have said before, that the control should be of a general nature and we should not go into any details whatever. In this matter only overall expenses should be limited and we should leave the rest to the discretion of the management. Yesterday my hon. friend Pandit Govind Malaviya said that this cry for limitation of overall expenses is being raised by vested interests. It may or may not be so and I would not be surprised if it is so. But I am not concerned whether the cry has been raised by vested interests or not. We here have no other vested interest except the vested interest of the policyholder and the country at large. We have therefore to look at the problem from the point of view of the interest

of the policy-holder and the country at large. From that point of view it would be agreed that we must see to it that it should not be open to insurance companies to squander the policy-holders' money or spend more money in securing new business or in running the old business than is absolutely necessary. We must protect the interests of the small companies but we must also see to it that things are carried on in a proper manner according to sound economic principles.

It is proposed in this Bill, as it was also in the former Act, that the commission of the agents be limited. It is now proposed to fix the commission of the special agents also. So far as the remuneration of the chief agent is concerned as also overall expenses hardly any attempt has been made to put an effective check over them. I am not unmindful of the fact that it is proposed in the Bill to set up an insurance association whose business will be to watch the affairs of insurance companies and they shall from time to time fix what percentage of the premium income should be spent by companies of different groups. It is no doubt a step in the right direction but I submit that it would be very much better if a statutory provision were made in the Bill fixing the overall expenses. While fixing the overall expenses we must take into consideration the fact that the smaller companies must necessarily have to spend more than the older companies and therefore different scales may have to be fixed for different companies of different standing and sizes. There should be some definiteness about it so that it would not lead to anything unhealthy, which might be the case if we leave this complicated and delicate question to be decided by a body like the executive council of the proposed Insurance Association. It appears to me as if we are putting the cart before the horse. On the lower rung of the ladder we have to fix the commission of the agents but so far as the bigger people in the business, such as managers, chief agents, etc. are concerned no check has been placed with regard to their remuneration except in the manner that I have just indicated. I am rather of the view that the limitation put with regard to the commission of the agents should be removed, as I do not see that it serves any useful purpose. Why should the commission of the poor agent be fixed and not the overall expenses? If overall expenses are fixed it will be open to a self-sacrificing manager to pay a little more to the commission agent in order to get more business and pay less to himself in the initial stages of the company. If X is the overall expenditure the commission agent may be paid a large amount for a number of years and the managing director, the manager or other important functionaries of an insurance company may forego their remuneration and may remain content with a small remuneration until the company gains a good footing. Why, therefore, fix the remuneration of the ordinary agent and put a handicap in the way of the Manager and Managing Director who may be prepared to make sacrifices in the cause of the company in its initial stages? It may be, as my hon. friend Pandit Govind Malaviya said, that the new companies will find themselves in a difficult position. If we have different scales of expenditure for different companies no such difficulty need be felt by the comparatively smaller companies or companies of recent origin. If even in spite of our fixing different scales for different companies some companies do feel difficulty we cannot help it. We are not here to smoothen the difficulties of the smaller insurance companies at the expense of policy-holders. Our legislation should aim not at unduly helping any new enterprises or individuals. Our business here is to look to the interests of the policy-holder and not to the interests of a few Managing Directors or a few Managers. If overall expenses are definitely fixed by the statute and if these companies do not find it profitable it is open to them to amalgamate with any other company. For, as I have said, it is the interest of the policy-holder and the larger interests of the country that must weigh with us and not the interests of a few individuals or of the small companies. And even their interests will not be in jeopardy as it is open to them

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if they find themselves in difficulty to amalgamate themselves with other companies.

Coming to the composition of the proposed Indian Insurance Association and the Executive Committees thereof, I have one small suggestion to make, and that is that definite provision should be made in the Bill with regard to the proper representation of small companies and all companies of ten years' standing or thereabout. I know of course that it is open to the Government to see that if any interest is not properly represented in the Executive Committees persons representing such interests are nominated on them. But I think it will be reassuring to the small companies if a definite provision is made in the Bill itself in this behalf. And there is no harm in having a definite provision to that effect when, as I understand, it is certainly the intention of the Government that such interests should not go unrepresented.

There is one provision in the Bill which I am rather surprised to find, and that is that the manager of a life insurance company shall not be paid any commission. I do not see the reason behind this suggestion in the Bill. I am rather of the opinion that everybody in the insurance company—not of course the ordinary clerks but everybody who counts—the agent, the chief agent, the manager and all the other important functionaries should be paid not on a salary basis but on a commission basis. There is one very great advantage about it. If we fix the overall expenses at a particular figure and if all these persons from top to bottom are paid on a commission basis it can be easily seen at any particular time as to what percentage of the premium income is being spent over the agent, the chief agent, the branch secretary, the manager and the managing director and the total expenses can be easily checked and controlled. I would submit that we should specifically recognise in this legislation the soundness of the principle of payment being made to all important functionaries of insurance companies on a commission basis and not on a salary basis. I hope the Select Committee will give particular attention to this suggestion of mine.

While we want our insurance companies to run economically and not to waste their funds we must at the same time help them not merely by having a legislation to that effect but by helping them in some concrete form. But far from doing that, I find in the Bill a clause which would lead to unnecessary expenditure to be incurred by insurance companies. That clause is that there shall be actuarial valuation of an insurance company after every three years whereas hitherto it was to be after every five years. This actuarial valuation is always a very expensive business. Not only has the Actuary to be paid a heavy sum of money but a number of members of the staff of the life insurance companies have to be kept, sometimes for a number of months, to prepare the necessary statements and cards to be submitted to the Actuaries. I see no reason why in place of five years we should have it after every three years. There is now going to be an Association—a statutory body—and Executive Committees attached to it. Regular statements from insurance companies will be called for by these Executive Committees and by the Government which will keep these Executive Committees and the Government well-informed of the position of the companies from time to time. There being so much supervision and so much of continuous—almost day-to-day—inspection, I see no reason why it should be necessary to have actuarial valuation after every three years. I hope the Select Committee will consider this question also.

I would like to refer to one other matter. That again deals with the question of making payment on commission basis. It is provided in the Bill that the chief agent can employ any number of persons on a salary basis but not on a commission basis. I cannot understand the justification for such a provision.

Let the chief agent's commission be fixed at a particular figure. But it should be open to the chief agent to employ any number of persons on such basis as it may suit him. Why should it be obligatory upon him to employ persons on a salary basis? Of course those who are employed on a salary basis and particularly those who are not very efficient always prefer to have salary rather than commission because there is always a good deal of uncertainty with regard to the amount of commission that one may be able to earn. So far as salary is concerned, for the first, second or third month, or for some number of months, the man employed is quite secure. He will go on getting his salary whether he is able to put in good business or not until he is found inefficient and discharged whereas if he is employed on a commission basis he will get money in proportion to the amount of business that he secures.

Then there is the question of policy-holders' directors. My hon. friend Mr. T. T. Krishnamachari rightly pointed out yesterday and it was pointed out by other hon. Members also—by Mr. Sidhva, I believe, and by one more hon. Member—that these policy-holders' directors are merely dummy directors. They are not free and independent agents. No person can hope to be elected as a policy-holders' director if he is not prepared to fully co-operate in all the deeds and misdeeds of the manager or the managing director. The Bill provides that there shall be at least two policyholder-Directors whereas hitherto only 25 per cent. of the Directors were to be policyholder-Directors. That meant that if there were four Directors there need have been only one policyholder-Director, but hereafter there shall be at least two of them. This is an improvement on the present state of affairs, but then we must take cognizance of the fact that these policyholder-Directors are not really policyholder-Directors but are virtually the nominees of the Managing Directors. It is therefore necessary that some provision must be inserted in the Bill which should ensure that a real representative of the policyholders is elected. If no other device could be thought of at least the suggestion made by Mr. T. T. Krishnamachari should be accepted, that the policyholder-Directors should be nominated by the Government out of the policyholders of the company. If that is not accepted entirely, at least 50 per cent. of it should be accepted so that at least one of the two policyholder-Directors should be nominated by the Government and the other may be left over to be elected by the policyholders under such manipulated circumstances as are created by the Managers and Managing Directors.

A suggestion was made by my friend Mr. Sidhva yesterday that policy conditions should be uniform. I am afraid that is a suggestion which should not be accepted in its entirety. If policy conditions are to be all uniform, there would be absolutely no scope left for initiative in insurance business. New companies, when they come up, and old companies from time to time, in order to meet competition, introduce new and attractive policy conditions. Of course, we must see to it that these new and attractive conditions are not based on uneconomical grounds and are not risky to the policyholders, but beyond that I think we should leave it to the management to find out some new methods of attracting policyholders and it should be open to them to exercise their ingenuity to the best of their capacity. So far as the more essential conditions are concerned, there may be uniformity but there need not be absolute uniformity with regard to all the conditions.

An hon. Member had some criticisms to offer with regard to medical examiners. It is no doubt true that medical examiners are in a very large number of cases. I have regretfully to state, not straight. I don't mean to cast any reflection on the medical profession as a whole. Perhaps many important doctors, many doctors who have a flourishing practice don't even care to be appointed as medical examiners, but then it has to be regretfully admitted that

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in a pretty large number of cases the medical examiners don't act in a manner in which men belonging to that noble profession ought to behave.

Dr. Mono Mohon Das (West Bengal: General): May I know whether the hon. Member has got any evidence in favour of his remarks?

Mr. Speaker: Order, order. We need not go into that now.

Shri Jaspat Roy Kapoor: I will not go into detail to answer that question, but with your permission, Sir, I must submit that I have even a little personal experience of that.

Mr. Speaker: Order, order. I think the matter is so obvious. There are black sheep everywhere. He need not try to answer that charge.

Shri Jaspat Roy Kapoor: I am not going to answer that charge but in order to substantiate what I have said, ignoring the question which my hon. friend has put, I would like to enlighten the House that once, about twenty years ago,

Mr. Speaker: I am afraid the hon. Member has already taken 45 minutes, and if he goes into this illustration he will undoubtedly take longer time. So, it is not necessary for supporting the proposition which he has made.

Shri Jaspat Roy Kapoor: Sir, I submit to your wishes and directions. I have only one word to say that I have very great respect for the medical profession and when I made the remark that I did, I meant to cast no reflection on the medical profession as a whole. There are black sheep in every profession and I hope not even my hon. friend Dr. Mono Mohon Das would assert that there are no black sheep in his profession.

Therefore, it is necessary that we must find out some method by which it will not be possible for unscrupulous doctors to fill in the medical examiner's report in a manner which is prejudicial to the insurance company and to the other policyholders. I have one or two suggestions to make in this regard and that is that it should not be open to any particular doctor to be the medical examiner of more than one or two insurance companies, or that it should not be open to an agent to take his insurance cases to any doctor—particular doctors must be attached to particular agents so that the doctor may not be at the mercy of the agent and the particular agent must necessarily have to take his case to a particular doctor whether he is prepared to accommodate the agent or not. If possible, some such measure should be incorporated in this measure.

Dr. P. S. Deshmukh (C. P. and Berar: General): Also attach a schedule of the names of doctors?

Mr. Speaker: Order, order.

Shri Jaspat Roy Kapoor: Well, if my hon. friend Dr. Deshmukh has the ingenuity to find out some method according to which a long list of doctors can be incorporated, I for one would have no objection. I don't remember whether he is in the Select Committee or not, but if he is in the Select Committee, I hope he will bring all his talents to bear on this task and will be able to implement in the Bill itself the wonderful suggestion which he has thrown out before the House.

Dr. P. S. Deshmukh: I am more anxious for the hon. Member's speech to end, Sir.

Shri Jaspat Roy Kapoor: Sir, I don't want to tax the patience of the House, especially when I am not unmindful of the fact that my remarks are getting irksome to my doctor friends here.

I shall leave the doctors alone now and will come to agents. To agents the insurance business owes a debt of gratitude. It is the insurance agents who feed the insurance company; it is the insurance agent, particularly the insurance agent of the small companies, who carry the message of insurance to the masses. During the last 20 or 25 years, I know small agents of small insurance companies have carried the message of insurance to rural areas and I think we certainly owe a debt of gratitude to them. Therefore, while we are enacting an insurance legislation, we must not forget the insurance agent; we must do everything that is possible to safeguard his interests.

I have already submitted that there should be no limit with regard to the commission payable to the insurance agent; only the overall expenses must be fixed, because thereby nobody has to lose. That way, new and small insurance companies with really self-sacrificing managers and managing directors will be able to pay more to the ordinary agent sacrificing their own remuneration for a few years in the initial stages of the company.

Then, again, I submit that so far as the payment of renewal commission is concerned, there should be absolutely no hindrance in that respect. Of course, in the present Bill provision is made to liberalise the conditions for the payment of renewal commission. They are good, so far as they go, but I would very much wish that no condition should be imposed with regard to the payment of renewal commission excepting, of course, the condition that it shall not be payable to the agent if he is guilty of fraud or something like that. Apart from that, I see no reason why when an insurance agent who has put in work should not be given the advantage of drawing renewal commission right up to the last moment when premium is payable on the particular policy or policies which he has introduced. He has earned his renewal commission on the day when he has introduced the policy and there should be no restriction placed in the way of his earning renewal commission.

Then, Sir, there is one thing which is provided in the Act that an insurance agent may not be the Director of an insurance company. I see no reason why this restriction should be placed. Of course, I quite appreciate that an insurance agent should not be the Director of an insurance company of which he is not the agent, because doing work in one insurance company, if he sits on the Board of Directors of another insurance company, he may be in a position to know the secrets of the other insurance company without working for it and that is not proper. But so far as his own insurance company is concerned, why should he be tabooed? Why should he be considered an untouchable? On the other hand, I think an insurance agent who has introduced a large amount of business for the company is particularly interested in the well-being of the company and in safeguarding the interests of the policyholders. He is just the sort of person who ought to be elected to the Board of Directors, particularly as a policyholder Director. Very often, we know that an insurance agent secures business from the circle of his friends and relatives. Policyholders place absolute confidence in the insurance agent. They go by his word. More often than not, insurance business is secured by personal influence and personal confidence. That being so, it becomes the sacred duty of the insurance agent to see that the money which he has taken out of the pockets of his friends and relations and people who place confidence in him is well protected and safeguarded, and what better method could there be for the insurance agent to see to the proper utilisation of the premiums realised from his friends and relations than to sit on the Board of Directors and take a certain hand in the administration of the affairs of the company. I would therefore submit that rather than place a ban in his way, if it is not possible to have a specific provision in the Bill, it should be part of the policy of the Government while nominating a policyholders' Director to nominate at least one insurance agent of the company as a policyholders' Director.

Shri M. Tirumala Rao (Madras: General): Appoint an agent as policy-holders' Director?

Shri Jaspat Roy Kapoor: That is exactly my contention. I hope this and the other suggestions that were made yesterday would be carefully considered and analysed by the Select Committee. We are fortunate in having a Select Committee composed of very eminent persons.

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

I am told by the hon. the Chief Whip that there was a good deal of rush on the part of the Members to join the Select Committee and I am glad that so many members are taking such great interest in this legislation. I have also been assured that many of them are experts. That being so, I hope the expert Members of this Committee will bring to bear upon the consideration of this subject their expert knowledge and when this Bill comes before us after close scrutiny by the Select Committee I hope and trust that we shall find it a much better Bill and a more acceptable one.

With these words, I support the motion of the hon. Commerce Minister for reference of this Bill to the Select Committee.

Shri O. V. Alagesan (Madras: General): Sir, it will not be without profit to recall the circumstances under which the original Act of 1938 was passed by the old Assembly in the year 1937. Some of the veterans who gave shape to that Act are with us and you yourself, Sir, played a very important part. What was the position at that time? The Congress Party which was in opposition wanted the Act. Because they wanted the Act, they had to swallow many a bitter pill. There were many unsatisfactory features in the Act, which they had to agree to lest they should lose the whole Act. There was a sort of despair and poignant feeling in every member of the Congress Party that the country was not free, that they were not free agents and that they could not have this Act according to their desires. That was the position then. Of course, you know it much more than myself.

The note that was struck then and the aim that was put forth by every member that took part in the discussion was, I need not say, nationalisation. They talked of it, but they knew that it was at that time a distant ideal. Now, we are a free nation. There is no third party in the way and there is none to prevent us from having the Act as we please. Yet, what do we find? Instead of realising all the dreams of 1937, we do not seem to be anywhere near the ideal that was so fondly hoped for during those days. Nationalisation seems to be as far as ever. It still seems to be a distant ideal not capable of realisation in the near future.

This is the opportunity for the hon. Mover to make a start with nationalisation, but I am sorry to say that he has not utilised that opportunity. He could have made a small beginning with the general insurance business and extended it later. But he has not chosen to do it, and as my hon. friend Shri T. T. Krishnamachari pointed out the other day, under compulsory insurance for third party risk, a lot of money is being invested for motor cars and other such things by persons in this country. At least this could have been taken over by Government. It would have been better if at least such a small beginning had been made. Incidentally, I can tell you that the Government could have found out how erratic the traffic control in the capital is, because they will have to be paying bills for cars that are being damaged and they will, as a result, try to improve the traffic regulations in the capital.

Instead, the hon. Mover gives us a consolation in the shape of clause 9. He has said that it is the compromise for nationalisation. Now, what does that clause say? A public company limited by shares can by a special resolution convert itself into a public company limited by guarantee and forward a scheme to the Central Government, and then the Central Government will examine that scheme and if they accept the scheme, then that will come to stay. But any person who is aggrieved may within ninety days move the High Court and if the finding of the High Court is different, then that is final and cannot be questioned. This is the alternative to nationalisation that the hon. Mover has sought to offer and he says that it will be helpful in improving matters. If I may say so, though I do not want to use strong language, it is adding insult to injury.

If this is going to be the measure and speed of nationalisation that we are going to have, even in such an innocuous sphere as insurance, then I should say I am sorry for this country.

Sir, again looking at the Bill as a whole, I am constrained to say that it does not look like an Insurance Amendment Bill. It looks like a Criminal Tribes Act. We have abolished the Criminal Tribes Act in Madras and you cannot call anybody a criminal tribe by birth now. But we are made aware by the Government that there are criminal tribes by calling and this calling of insurance seems to have a lot of criminals in its fold. I am very sorry that those who are responsible for this business in this country should have brought about such a state of affairs.

Prof. N. G. Ranga (Madras: General): Why not then agree to nationalisation?

Shri O. V. Alagesan: True; that is what I am coming to.

Sir, I do not mean to say that there is no justification for Government to have brought forward this strict measure and if the other measures that were proposed by Shri T. T. Krishnamachari yesterday, namely having a Government director on every directorate of insurance companies and also having an investment board are introduced, then the cup of humiliation for the industry will be full.

What I, therefore, wish to say is that the information, the confidential information, that is in the possession of Government should be made public. Otherwise the people may think that there is not much justification for Government to bring forward such a strict measure as this. Though the Government all the while possess the information in their hands, others may not know it. Those who do not have any inside knowledge of the working of these companies may find it difficult to find justification for this measure. Even Mr. Sidhva the other day did not want to disclose the information in his possession; he wanted anxious Members to go to him for enlightenment. So it is better that the Government publish this information and I am sure it will prove to be a greater deterrent on the erring companies than any penalties or any restrictions that you can think of in this Act. Sir this is only a suggestion. I do not know whether the report of the informal committee that went into this question after the Cowasji Jehangir Committee has reported, is published. I should like to have it published and a copy placed in the library. I think the hon. Minister will find it easy to do it.

Again, Sir, as my friend Prof. Ranga suggested, if insurance companies have any self-respect they should now come forward and say: "We do not want to work under this Act. You had better manage the whole business, because it is so humiliating to us." They could even take the credit of forcing nationalisation upon this Government which is so tardy. But the

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question is: "Will they do so?" They are wiser men and they may not have anything to do with such sentimental nonsense as self-respect, and as my hon. friend Shri T. T. Krishnamachari said yesterday, they may try to find loopholes and try to do a little more high jump, because as he said the higher the fence the greater the skill with which they try to jump over this fence. Sir, a gentleman who holds a very important position in relation to banking in this country made a statement sometime back which appeared in the papers. He said: "If anybody wants to commit temporary misappropriation, he starts a bank. If he wants to commit permanent misappropriation he starts an insurance company". The information that went into the hands of the Cowasji Jehangir Committee, I think, seems to justify the assumption of the gentleman. This Bill, I am glad to find, has been largely modelled upon the Cowasji Jehangir Committee's report and many of their recommendations have been incorporated in the Bill. I should say that some improvement also has been made in some respects.

Sir, investments are sought to be controlled by sections 16 and 17. It is good that these restrictions have been laid down. But I find, Sir, that a concession has been shown to United Kingdom securities which is beyond any justification. Sir, they are allowed to continue for four years and the Central Government can make the period even longer—they can make it six years. I do not know, Sir, why this concession should have been shown in favour of the United Kingdom securities, against the principle of which you and your colleagues fought ten years ago.

Another point that the Jehangir Committee reported on was that the percentage of deposit in any Bank need not be above two per cent. I think that the Bill allows three per cent. One other point has been omitted. That is with reference to fixed deposits. The Jehangir Committee said that that need not be longer than one year. I think that provision can be added in a suitable place in the section dealing with control of investments.

Then, Sir, we come to the other major question of control and limitation of expenses. My friend the previous speaker said that we need not put any limit upon commission. When the original Act was placed on the Statute Book it was claimed that the limitation of commission was the backbone of the Act and I do not know whether conditions have changed now. It is good that the limitations placed on commission are even made stricter and are continued.

Then I am told, Sir, that on the matter of fixing the overall expense ratio statutorily the big companies wanted them to be 90 per cent. of the first year's premium and 15 per cent. of the renewals. The small companies objected saying that it would not be in their interest and it will harm them. I do not know how far this is true, but it would have been better as some hon. Members have pointed out if an upper limit had been statutorily fixed for these expenses.

Sir, I do not know whether the elaborate machinery proposed in this Bill will be able to rise equal to the task and do justice to it. I think it is very doubtful whether they will be able to control expenses satisfactorily. The elaborate machinery that is devised under this Bill, I think, somewhat resembles in some respects at least, the Press Advisory Committee on whose recommendations Government is to take action against the erring newspapers. Here it is different, and I do not think that we will have the desired effect through this machinery, because, if you look into the constitution of the Insurance Council and the various executive committees and the other committees that are sought to be created here, they are all over-weighted in favour of

insurers' interests, and the powers that they are given also are not commensurate to the task that they are called upon to do. In proposed section 64 K, I think it is clause 45, the power of the Executive Committee of the Life Insurance Council to control expenses is given. And the Committee can fix, with the approval of the Controller-General, the limits by which the actual expenses incurred by an insurer carrying on life insurance business in respect of such business in the preceding year may exceed the provision for expenses contained in the premiums received by him during such preceding year. It all boils down to a post-mortem examination, and you can rest assured that the Committee, being already over-weighted in favour of the insurers, would not like to disoblige their colleagues, and they would try to regularise and approve any excess of expenditure that might have been incurred by the companies. So I am afraid that the control that will be exercised by this elaborate machinery may not be sufficient. What I mean is this: Regarding control of expenses, though the managing agents are no more there—the managing agents against whom the then Mover of the old Bill said that he had developed a homicidal mania, that is what he said, and many other Members also had a similar mania—though these managing agents are not here, they have been replaced by managers and managing directors who do not hesitate to play ducks and drakes with public money. To control all these people and all their transactions is very difficult. I think it is very doubtful whether these Executive Committees will be able to do it.

Then again, Sir, it has been proposed to give power to these Executive Committees to do several other things, namely, they can hold examinations for insurance agents. I do not think that that is necessary, because insurance agents are of a type who do not pass examinations but succeed in the profession very well. So holding examinations for such a lot who are rather averse to all examinations, I am afraid will not improve the calibre of the profession. They fail in examinations and shine in the insurance business. So I do not think there is any necessity to have examinations for these agents.

Sir, there is another thing—a more important aspect of this expense ratio which is likely to be overlooked. I should like to have the indulgence of yourself and of the House to read the following sentence that was uttered by Sir N. N. Sircar in his closing speech, when he was discussing the various benefits that have accrued to the country from the legislation. He made this, among other points. On the question of expense ratio, he said—

"We have not been able to fix the expense ratio, but I do submit that indirectly, there has been a check on expense ratio, by providing for the maintenance of 55 per cent. of the liabilities in gilt-edged securities, by limitation of commission and prohibition of rebates."

That is what he said, and he almost seemed to regret that it was not possible to have a provision for expense ratio. Even now we do not seem to be any the better since we have not been able to provide for any satisfactory expense ratio, and we have thought of only this elaborate machinery to enforce control of expenses.

Mr. Deputy-Speaker: Is the hon. Member likely to go on for a long time?

Shri O. V. Alagesan: I would like to take a few more minutes.

Mr. Deputy-Speaker: In that case, the House will now stand adjourned to 2.30 p.m.

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

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

Shri O. V. Alagesan: Sir, when the House adjourned for Lunch, I was on the question of expense ratio. The more important object for fixing an expense ratio is this. In this country, the average amount that is insured for is between Rs. 2,000 and Rs. 2,500. By limiting these expenses, the object is to reduce the premiums to a greater extent than they are now prevalent and to enable the poor people to take advantage of insurance. As has been pointed out, there is room for expansion of this insurance business in this country many times more than what it is at present. That was the object. The previous Bill which went up to the Select Committee stage had prescribed various ratios. The hon. the Minister said that they were not scientific, that they are more or less arbitrary, and so he has had to fall upon the present device. If you go through the tables, Sir, you will find that they have fixed different limits for different companies, with different years of standing, and difference in capital too. It is flexible and elastic and if it is necessary that there should be still further changes to be effected in those tables, they can very well be done. We are told that because the Insurance interests objected to this ratio being fixed, that Bill was withdrawn and the present has been introduced. I would request the Select Committee to consider this matter once again and give their best thought to this and see whether they can, even with changes in the previous tables, have them incorporated in the present Bill.

I may give a few figures. The companies in their first four years may spend 100 per cent. of their first year's premium and twenty per cent. of their renewals; companies from five to seven years standing, 96 per cent. of the first year's premium and 18 per cent. of renewal premiums; companies from eight to ten years, 93 per cent. and 16½ per cent. Again, Sir, after the tenth year, if the insured business in force is less than two crores, they are allowed to spend 90 per cent. of the first year's premium and fifteen per cent. of renewal premiums; if it is not less than two crores, 85 per cent. of the first year's premium and 13 per cent. of renewal premiums. Sir, if it is necessary to change these figures, the insurers can be accommodated, and the changes effected and the elaborate machinery that is provided here may be asked to administer this. They will have something concrete to administer and to see that that limit is not over-stepped, instead of leaving them to decide whether a company which has over-spent has done properly or not. It will be putting them in a wrong position too. So, as I said before, I would request the Select Committee to go into this matter once again and see whether they cannot adopt these tables.

There is one other matter, namely, the Superintendent. Even during the discussion on the last occasion, the Superintendent was called by several names; members wanted to call him Dictator, Hitler, etc. Under this Bill, he really becomes a very formidable person. He is invested with very wide powers; he is really the boss of the whole insurance show of the country. The success of this Bill will entirely depend, or rather very largely depend, upon the personality of the person known as Controller General now. It is quite in keeping with his wide powers that his designation has been changed into Controller General.

Another thing: the success of the new Bill will depend entirely upon the way in which it is worked. There are very complicated provisions. They

have to be ever watchful and vigilant and even the Controller General's office itself will take a long time to acquaint themselves with the provisions of this Bill; they should also educate these Insurance companies in the new Bill and its provisions. Unless the administration is put on a very sound and efficient basis, beyond any question of incapacity or inefficiency, we will not have much result from this new Bill. So I hope the hon. Minister will bear this in mind and try to set up an administration which will rise equal to the task of administering this new amending Act.

Dr. P. S. Deshmukh: What about the cost?

Shri O. V. Alagesan: Of course the cost is there and you cannot have it both ways. But I do not equate efficiency with inflated salaries.

Dr. P. S. Deshmukh: Another Ministry of Insurance?

Shri O. V. Alagesan: I don't propose any such thing. I should like to point out some of the defects in the various provisions of the bill and I shall not take long.

In Section 25 when action is taken against any Company, the Central Government can require the Insurer to take such action in respect of any matter as the Central Government may think fit. They can give a chance, they can appoint a Director for five years to improve the administration and try to see whether that will improve matters without straightaway taking up winding-up proceedings.

Again in section 31 which deals with commission for agents, the old section has been changed. The old section allowed 40 per cent. for first year, 5 per cent. on renewals and 15 per cent. in other cases. Here it is 35 per cent. for first year, 7½ per cent. for second and third year and 5 per cent. thereafter. So for three years it comes to the same thing and if it is not very much different from the old section, I do not understand why this change should be effected.

Coming to Section 33, sub-section (3) of proposed Section 42A which is with reference to renewal of certificates for agents, chief, special etc., these agents are required to procure business that is specified in the schedules and they should get a certificate that they have procured that amount of business from the Company and then apply for renewal. They are asked to secure that business within the course of one year and they are asked to apply for renewal even before one year is out. I think there is a discrepancy and that can be removed by asking them to apply within a month after the year is out.

Section 37 is really good. When a dispute arises between a small policy-holder and a Company, the Controller General has been authorised to decide the issue and give his award and it shall be binding on the parties. This will help very much the small policy holders who are now harassed and whose claims are not paid then and there.

Again on page 34 there are two things—the constitution for the Executive Committee for Life Insurance and the Constitution for the Executive Committee for General Insurance. In the first instance eight representatives are elected and four persons connected with insurance business are nominated by Central Government and representing such groups or areas that may not have secured representation in the course of election. That is the Constitution for the Executive Committee for Life Insurance. In the constitution for Executive Committee for General Insurance, the same is repeated with a little difference. Here 9 representatives of insurance are to be elected in their individual capacity by the said insurers in such manner from such groups and

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from such areas as may be so specified by the Central Government. So here the Central Government specifies from what groups and areas this election should take place which is not provided in the first case. I don't know where there is the necessity for sub-clause (d) of sub-section (2) which says that three persons connected with insurance business should be nominated by the Central Government etc. I think these two can be clubbed together and all the twelve either elected or can be nominated by Government.

These are the few suggestions I wished to make and there are other minor details also into which I don't wish to go. I hope the Select Committee will give its best attention to these things and make the necessary improvements and changes.

Dr. P. S. Deshmukh: Sir, this Bill brought forward by the hon. Commerce Minister has been assailed and with some vehemence from two opposite angles of view. Mr. T. T. Krishnamachari considered this bill hopelessly insufficient to meet the requirements of the present times and he thought this was tinkering with a huge problem. He even went so far as to use the word 'monkeying'. On the other hand a good many of the people concerned with or attached to insurance companies think this bill is likely to cripple the whole progress of insurance in India. I speak from the point of view of smaller companies and I personally think that there is some truth in the criticism from both the sides. If it was the intention of Government that insurance in India was not performing its duties properly, then the best proposal would have been to come forward with a whole-sale nationalisation of insurance for the whole of India. If that was done, then we would have also had another very necessary and desirable reform, namely, the institution of a sort of compulsory State Insurance. Compulsory State Insurance is coming more and more in vogue as it is regarded as an indispensable Social Security Measure. The Governments of the modern times have ceased to remain Governments of the old character and Governments of the present day have not only to interfere in so many different spheres which were not their legitimate spheres before but they have also to watch and look after the welfare of the people directly. More and more we have the people urging on our attention the advantages of socialisation and nationalisation and influenced by these ideas, some of us influenced by even slogans to that effect, if we urge that a service like insurance should be nationalised, I don't think there is anything which is surprising in that suggestion. But the situation that would be created by this bill is neither the one nor the other and to that extent I certainly agree with the hon. Members of the House who have spoken before me that the bill will on the one hand not secure the advantages which it seeks to secure but rather worsen the situation as it exists at present.

In para. 3 of the Statement of Objects and Reasons the two objectives of the Bill have been mentioned as follows:

"(i) making it difficult for designing financiers to get control of insurance companies or to use insurance funds for speculative purposes, and

(ii) preventing interlocking of interests between insurance companies and banks."

No one can quarrel with either of these two objectives. If the Bill really aimed at securing these objectives and no more I for one would probably have supported it without comment. In the first para. of the Statement of Objects and Reasons, however, it has been stated that the Bill has been brought "in the light of the changed conditions arising out of the Partition and the changed constitutional position." My complaint is that the Bill is, excepting in very few particulars, based entirely on the recommendations of the Cowasji Jehangir Committee and to the extent it is based on the recommendations of that committee, the Bill is out of date.

The Insurance Act was overhauled in 1938. A few changes were effected in that Act in 1941. It was then considered necessary to examine the Insurance Act as it then existed after 1941 in the light of certain comments, criticisms and defects in the working of the insurance companies. From that point of view a committee was appointed and as a result we have the recommendations of the Cowasjee Jehangir Committee. If the Partition has given rise to certain circumstances which have a bearing, direct or indirect, on the Insurance Act and its working and if there is something to be said in regard to the changed constitutional position, I should have expected a more thorough enquiry into the present position. I contend that this has not been done to the extent that I would have liked. The result is that this Bill, on account of the various complicated amendments suggested to the original Act, is in all probability likely to tie the hands of insurance companies hand and foot and then asked to swim. That is how, at any rate, it is going to affect the smaller companies.

One of the objectives, as I have stated, is to make it difficult for designing financiers being able to take advantage of companies which are not working so well and securing advantages that they should not have. The present Bill has been brought forward to remedy that situation. So far as I can see, the amount of control that is sought to be exercised on the working of the insurance companies and the amount of interference in their day-to-day affairs is going to be so much that the thing which we seek to prevent from taking place will probably be perpetrated on a larger scale on the very strength of the amendments that are here proposed. Under most of the amendments the smaller companies are going to be directly affected. The bigger companies have huge funds at their disposal. There is no question that their funds should be taken over. They can always fulfil all the requirements stipulated by the Controller-General or any other officer appointed for the purpose. It is therefore going to be difficult only for the smaller companies. I do not think anybody said that the smaller companies should not live. If that were the intention of the Government they could set down a certain date after which they will refuse to register any new insurance company. I do not think that that is the intention. If you look at the provisions of the Bill from the point of view of the smaller struggling companies (companies which can by no means be accused of either of these two charges which have been made against certain financiers or the management of certain companies) these are the companies which are going to find it extraordinarily difficult to fulfil the provisions sought to be incorporated by this Bill.

I for one would not have minded the Controller-General having large supervisory powers and powers also to interfere, if any company or its management was not up to the mark. What is tantalising and going to obstruct the smooth progress and prosperity of the company is that there is too much interference in their internal affairs and day-to-day affairs. If you look at the suggestions made so far as expenses are concerned or the method of payment to the agents is concerned, you will find that the Act will be either unworkable or it will stifle the smaller companies altogether. From that point of view I would urge that we take a little more time on the passing of this Bill and I do not think anything will be lost thereby. If it is our view that insurance should be a nationalised concern, let us make up our minds and take it up as such. I happen to be connected with a small company, for the management of which I have very great regard. Insurance in the eyes of some may probably be exploitation of the smaller men. Unless the management is immoral or of a kind that it should not be, I do not think insurance can be styled as exploitation. In fact if it were not for the insurance companies and the efforts made by many people in this direction, we would never have reached the stage at which we are at present. India is notoriously backward so far as insurance is concerned and there is a very great deal of leeway

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to make up, because this is a matter of social security, which should be available to the people in a larger and larger measure. From that point of view I for one would not like to cripple the initiative of those persons who come forward to organise and work insurance companies. I would much rather give them the latitude to work on their own without any crippling restrictions, at the same time reserving in the hands of the Controller-General or any other authority immense powers to check mismanagement as also to intervene wherever it is thought necessary. But all the various restrictions placed in the working of the companies I would not like to be included in the Bill. It cannot be gainsaid that there is a radical change in the whole structure of life insurance that is going to be effected by the provisions of this Bill. If at all it is necessary to have these provisions I would at least plead that more time should be given to the companies to enable them to adjust their affairs to the requirements.

Shri B. L. Sondhi (East Punjab: General): It is only an amending Bill.

Dr. P. S. Deshmukh: An amending Bill may become the sole Bill tomorrow. An amending Bill does not take away any of its rigours, because it is going to be the law of tomorrow. I do not think any consolation can be derived from the suggestion made by Mr. Sondhi.

Shri B. L. Sondhi: That is what they claim.

Dr. P. S. Deshmukh: According to the provisions stated here only one calendar year is to be given for those persons for recovering advances made as well as adjustments so far as capital and investment are concerned. I would plead that the period should be at least three years from the date of bringing into effect the provisions of this Bill.

It is sought to be provided that insurance will cease to be remunerated on a commission basis. Such a provision is bound to hinder and impede the progress of insurance business that the commission basis has been able to achieve and the initiative and energy that managements are able to show under the present system will be curtailed. Development of the business will be affected and it will impede, if not bring to a standstill, the spread of insurance.

Whether a manager has or has not the capacity to handle more than one concern, or whether he should be a director of more than one concern are also matters for each individual director or Board of Directors and there should not be any hard and fast rule, unless something mischievous or wrong has been brought to the notice of the Government. As I said, I am in favour of giving

large powers to the government Department but there should be no interference in the ordinary course of business. It is from this point of view that many of these provisions are really objectionable.

So far as the provisions relating to investments are concerned I certainly agree with what has been pleaded by my friend Pandit Govind Malaviya in this respect. We know for certain that the rate of interest which government securities carry is very low. Apart from the margin between the premium and the risk, the interest earned is the sole source for the progress of any company. If that is restricted by the low interest that government securities and the other securities which have been recommended offer, there is absolutely no chance for an insurance company to prosper in any way. As a matter of fact the provisions that exist in the 1938 Act are themselves so strict and stringent that insurance companies have already become a sort of charitable institutions. As has been stated by a number of my friends, it is years and years that share-holders have brought the shares and paid the share money but they have received no profit, no bonus and no dividend of any sort.

Shri R. K. Sidhva (C. P. and Berar: General): Who derives the profits?

Dr. P. S. Deshmukh: My friend Mr. Sidhva wants me to tell him who derives the profit. I agree that a large share of the profits goes to the managing directors. But if directors are watchful and if share-holders are watchful it is always possible to see that managing directors do not make exorbitant profits. I can tell him that so far as my company is concerned it is working really in a very satisfactory way. It has a sort of rural bias, it believes in working for the rural population and making them insurance-minded. From that point of view this restriction on investments and tying the hands of the insurance company wholly is bound to be a very deterrent factor, so much so that in all probability all honest workers in this field would prefer that the Government should take over the whole thing. In fact I have the permission of my managing directors to say that they will be the first to advocate, and to do anything that the Government wants, for the nationalisation of the insurance companies. I have not the slightest doubt about it. But in case it is the view that private insurance companies also have a part to play, that in the all-sided development of the country we have not yet reached that stage when state insurance alone will be able to undertake and cope with the sole responsibility, I would earnestly plead that there should be no hurry in rushing this Bill through this House, because this House is so composed that anything on which Government has made up its mind is bound to be passed within the course of a few seconds or a few minutes.

Shri L. Krishnaswami Bharathi (Madras: General): No Government is like that.

Dr. P. S. Deshmukh: Fortunately for the country and for the world every Government is not like that.

Shri L. Krishnaswami Bharathi: Then it will be like the French Government!

Prof. N. G. Ranga: Taking two days to complete general discussion!

Dr. P. S. Deshmukh: I do not think we have taken unreasonably long on any piece of legislation, unless my friends want a dictatorship, full and complete. I am sure what exists is very little short of it under the present circumstances. A few individuals have to make up their mind to pass a certain law and that can be imposed with every possible restriction on discussion and debate without any opposite views being expressed here for want of time and in order to rush and go to another piece of legislation. This is the character of our parliamentary democracy. That being so, I would certainly plead that on a Bill like this which really touches many aspects of the social and economic life of the country there should not be any rushing through. Otherwise, as I stated, whenever Government sponsors any measure there is very little time for anything else or for any fair and open criticism to be made, and the country and the people are saddled with a piece of legislation the contents of which neither they nor we their representatives here have had sufficient time to weigh and consider. Sir, I was provoked to make these general observations in greater detail by the interruptions that were offered.

As I have already said, nobody wants that an undue advantage of the funds of insurance companies should be taken so as to indulge in speculation or for the purpose of exploitation on a larger scale. That end is welcome and nobody would quarrel with any provisions directly contributing to the achieving of this result. But, as I said, in seeking to secure this this Bill interferes with the day-to-day working of the insurance companies, and to that extent it

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will defeat its own purpose and probably encourage the larger companies and speculative financiers to get greater control over these small companies. That is common-sense; that is absolutely logical. If the smaller companies are not in a position to carry on their business under these conditions, the only alternative open to them, so long as nationalisation is not there, is that they should approach some big company or some big financier and tender their management into their hands. Therefore, exactly what we are trying to prevent is likely to happen in a larger measure if we are not careful and cautious.

Sir, I do not wish to go into any greater detail than I have done. Many points have already been made by other speakers. These are the general observations I would like to make in commending the Bill to the Select Committee.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, as has been pointed out by Dr. Deshmukh there are two schools of thought in this House. One is that the Bill does not go far enough, that it is tinkering with the subject, and the other is that it is going too far in the direction of reforms. One statement of the hon. Minister while moving this motion was a little ambiguous and I was doubtful as to what he meant. He said that he would be the last Minister to deal with a Bill of this nature. I believe he meant that he would be the last Minister to *withdraw* this Bill.

The Bill has been well-considered. It has been before the public and before the Assembly for a sufficiently long time to enable the House and the Select Committee to give it a proper shape. In fact there are some big evils which the Bill really wants to cure. One is the prevention of monopolies in the management of insurance business. The well-known form is to buy shares at a very heavy premium, have a control over the management and then do what they like. I suspect that it is for this reason that many insurance companies do not give any dividends at all. No incentive is left in the investor to keep it long and the management tries to buy the shares by sending special agents to individual share-holders. This is an evil which should be checked and monopolistic tendencies in the matter of management and control should be dealt with severely by the Select Committee. As a result of these monopolies obtained by unfair means by persons who are not competent to manage, we find that insurance is managed in a most unregulated fashion and the quality of work deteriorates very fast. One of the evils in the management of insurance companies is fraud. In fact, there are many cases where lives worth not six months' purchase have been insured for 20 years and it has come to the notice of many already that people having insured their lives die quickly, within six months or a year. That is not a rare thing. In fact, the police were after a gang of persons who did this thriving business for some time. Too many persons who were certified to live at least 20 years have died quickly. In this type of business the most unscrupulous persons take part and unfortunately some doctors also are known to have taken part—they are, of course, exceptions. This tendency should be checked and, therefore, the Select Committee should go into this question.

An Honourable Member: How can you do that? Nationalise it?

Mr. Naziruddin Ahmad: Nationalization should be the last thing we should think of. Government is already overburdened with a lot of things with which it cannot cope. It cannot give us clothing, it cannot give us food, it cannot give us sugar. I submit nationalization is being too freely talked about in this House without realising its seriousness. (*Interruptions*) As to how fraud is to be checked, it is a matter which I shall leave to a specialist like Mr. Bharathi.

Another welcome feature of the Bill is to convert proprietary companies into mutual companies. That would have the effect of preventing the accumulation of profits in a few hands and distributing the profits to the insured persons themselves. That is a welcome feature.

The Bill also aims at limitation of expenses. In fact, the expense ratio in some companies is really very high and should be reduced. The Bill has this in view.

There is some amount of controversy as to how far and whether we should reduce the remuneration of the agents. There has been some amount of heated controversy over this. I submit the Select Committee should strike a middle course and try to reduce the commission in cases where they are very high and in cases where they are reasonable, they should not be touched.

The question of small companies has been raised. That is really a very serious matter and should deserve the anxious consideration of the Select Committee. The expense ratio of small companies is naturally very high.

Shri M. Tirumala Rao: What do you mean by a small company?

Mr. Naziruddin Ahmad: The expression has been used by a friend and neighbour of the hon. gentleman—Dr. Deshmukh. It is very difficult and improper at this stage for me to attempt a definition of small companies. Small companies are those companies which are small. In the case of small companies—and I leave the Select Committee to find out what are small companies—the expense ratio is very high. Their outturn is small and the little pay and commission that they give works at a high percentage over amount of business done. Therefore, in such cases I agree with Dr. Deshmukh that the Select Committee should have a special eye for them. There should not be one common formula for big companies and small companies. For small companies some special formula should be worked out so that they would not be wiped out by the pressure of big companies. An attempt should be made for small companies to combine and become big companies; otherwise, it would not be very easy for them to exist in the struggle for existence.

There is a controversy as to the question of investments which requires very careful consideration. The requirement of a certain minimum percentage of the life fund being invested in Government securities may be rather inconvenient. In India many insurance companies are working at a loss, their expense ratio is very high. The secret of success of an insurance company is the reduction of expense ratio, but in the beginning the expense ratio is really very high. It is only when the company has got some good business that that ratio comes down. The other way of making companies successful is to make the maximum of income, consistent with safety, from the life fund that is invested. In fact, the policy of investment would have been the other way for counteracting the high expense ratio in India. Government securities give us very low return. There are investments which are safe and which give us a much greater return. In the case of small companies or companies which are not very prosperous, one way of making them stand on their feet and competing with others is by allowing them some amount of latitude, consistent with safety, to have their investments in other securities than Government securities. That way they can make up for the higher expense ratio and show some profit. Some companies in India worked on that basis and they have succeeded largely. In these circumstances, the question of the principle of investment and the proportion of Government securities should be carefully reviewed by the Select Committee and a cut-and-dried formula to be applicable in all cases should not be accepted without consideration.

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With regard to agencies one thing need be said here, that is that their remuneration in some cases is very high but in most cases it is a pittance. A single formula to deal with all cases will not do. I know of some well-to-do agents who have the habit of "subletting" their agencies just like a tenant subletting his house. The big agent allows some small agent to have a percentage and the agent in the second degree employs the agent in the third degree and so on. If the amount on the whole is large, this will work hardship and injury to the policyholders.

Sir, on the whole I welcome the Bill and submit that the arguments which have been advanced on both sides should be carefully considered by the Select Committee and a formula agreeable to all should be accepted. The very fact that the Bill has raised some amount of controversy is a recommendation that it has not pleased all. But how could it please all who are ranged on two different sides? As I have already submitted, I welcome the Bill and would request the Select Committee to go through the points carefully in their report. That is all I have to say.

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

"That the question be now put."

Shri Lakshminarayan Sahu (Orissa: General): It is a very important Bill, Sir.

Mr. Speaker: I agree that it is an important Bill and that is why I allowed the discussion to go on instead of having it closed in the early morning today. It seems about nine speakers have spoken and some of the speeches have been unduly long. That is why others have had to be crowded out.

Shri O. V. Alagesan: Of the nine, were not some members of the Select Committee?

Mr. Speaker: None are members of the Select Committee. Perhaps, the hon. Member has forgotten the convention which I have tried to create in this House that people who are drafted on the Select Committee will have no opportunity of speaking here unless it be an exceptional matter. I am taking care to see that I am not calling upon anybody who is on the Select Committee. Only those who are outside the Select Committee have spoken today.

Shri B. L. Sondhi: Can't we go on for some time longer? It is a very important Bill.

Mr. Speaker: I know it is a very important Bill. I am prepared, of course, to ration time. But I feel that so far as discussion is concerned, the motion for closure is not unreasonable. There has been sufficient debate. That is my feeling. So I would put the question now. If any body wants to challenge a division he can. I am prepared to grant a division. The question is:

"That the question now put."

The motion was adopted.

Mr. Speaker: I now call upon the hon. Minister.

The Honourable Shri K. C. Neogy (Minister of Commerce): I am very thankful to the House for having subjected this very important Bill to a careful scrutiny. It was never my intention to rush this measure without an adequate appreciation of the implications of the various proposals that I have

placed before this House. As I stated in my opening speech, this measure has had the advantage of continued scrutiny from the interests concerned ever since the Bill of 1946 was before the House. Moreover, many specialists were, at the instance of Government, given an opportunity to further examine these provisions from different angles. After hearing the debate, I am more than ever convinced that this measure which represents the largest measure of agreement on some of the most controversial points is really in the best interests of the country. Several points of detail have been discussed by hon. Members which it will be for the Select Committee to consider and I must say some of those points would require to be very carefully considered by the Select Committee.

I should, however, like to dwell upon a few points of a general character. First, I would naturally refer to the issue of nationalisation. As I said in my opening speech, this issue was raised as early as 1946. I have not heard anything very new on this occasion, apart from what was stated in 1946, as regards the general desirability of undertaking insurance as a national venture. (**Shri R. K. Sidhva** : That is the greater reason why you must accept it.) There have been, however, some points urged in favour of nationalisation on the present occasion to which I would like to refer.

It was said by my hon. friend Dr. Deshmukh that it is the smaller companies which would welcome nationalisation rather than accept this measure. We heard a lot about the lobbying that is supposed to be taken place over this measure. I do hope that those hon. Members who have spoken in favour of nationalisation—at least some of them—have not been influenced by interests representing the smaller insurance companies, whose object it appears to me is to put off the evil day, that is, to postpone this measure so that they can enjoy the comparative freedom which they do at the present moment in the matter of management of insurance companies for some little more time.

I would like to draw the attention of the House to one fact, and that is that in the consideration of the present proposals we did bring in representatives of smaller companies who participated in the discussions as members of the Insurance Advisory Committee as also of the Special Committee that was appointed at the instance of the Insurance Advisory Committee. As far as I recollect—and I did preside over the final Conference that took place, a Conference at which the representatives of all the various interests of insurers as represented on the Insurance Advisory Committee and the Special Committee were present—and I do not recollect having heard the slightest objection raised in the name or on behalf of any smaller companies as regards the justification of the proposals now before the House. Apart from that, if the smaller companies were really opposed to the present measure, I should have expected a representation to have been made by those bodies which are supposed to specially represent their interests. There are the Federation of the Indian Insurance Companies Association, Delhi, and the Life Insurance Companies Association, Calcutta, which I understand are considered to represent the interests of the smaller companies and these Associations have not raised their voice in opposition to the present measure or to the procedure that we propose to follow in the passing of this measure.

Shri R. K. Sidhva: May I, with your permission, enquire whether the Conference of Agents was also convened?

The Honourable Shri K. C. Neogy: I am not in a position to say what the Conference of Insurance Agents may have said on the subject. All that I can say is that the Conference over which I presided their representatives were given a hearing and whatever provisions have been made affecting their interests were made after a full consideration of their viewpoint as expressed at that Conference.

Shri Jaspat Roy Kapoor: Were the Agents consulted in any way at any stage?

The Honourable Shri K. C. Neogy: They were, at the Conference over which I presided: the agents, representatives as also the representatives of the Chief Agents.

Shri Raj Bahadur (United State of Matsya): Will you kindly clarify the manner in which provisions relating to agents have been liberalised?

The Honourable Shri K. C. Neogy: I referred to one feature, as regards the right to receive renewal commission, as also the proposals regarding the formation of Provident Funds for their benefit.

Prof. N. G. Ranga: And seven years instead of ten.

The Honourable Shri K. C. Neogy: All that, I have already said.

So far as the comparative merits of State management of insurance, i.e., nationalisation, and the present practice of private enterprise in insurance are concerned, the Insurance Year Book of 1946 gave in parallel columns the arguments pro and con in this matter and I would commend it to the attention of my hon. friends, because I feel that when they go through this objective statement of the merits and demerits of both the systems, they will perhaps persuade themselves that there is something to be said in favour of continuation of the present system at least for some time.

Sir, I entirely agree with the view that the circumstances on which the Cowasji Jehangir Committee reported, and which actually led to the present measure, in a sense, constitute a most disgraceful chapter in the history of Indian insurance business and that there is a good deal of justification for the criticism which the proposal that the present system should continue, though under certain altered conditions, has met at the hands of some of my hon. friends. I hope that it will be a warning to the insurance concerns and that they will see to it that the state of affairs—the deplorable state of affairs—to which I have made reference does not continue any longer. In this connection I must say that I was simply surprised to find my hon. friend Prof. K. T. Shah suggesting that the insurance companies should be given some more time to reform themselves, although he was in favour of nationalisation. He had the fairness to admit that there is a case for giving a further period of time to the insurance companies to mend their ways under the proposed scheme which will enable a larger measure of control and supervision to be exercised over their affairs by a responsible officer of Government in collaboration, of course, with representatives of insurance interests themselves.

Sir, I am very pleased to find that my hon. friend Prof. K. T. Shah does not think, as my hon. friend Mr. T. T. Krishnamachari seemed to think that the insurance companies are past all surgery, past all hope yet, Sir, I associate myself with that attitude, namely, that the insurance companies should be given further time to improve their affairs.

Shri R. K. Sidhva: But how long?

The Honourable Shri K. C. Neogy: That would depend upon the progress that they make.

Shri R. K. Sidhva: They will never make any progress; better nationalise them.

The Honourable Shri K. C. Neogy: The next point of general interest on which I should like to dwell is as regards the desirability of bringing the general insurance companies within the purview of some of the proposals embodied in

this measure. Sir, my hon. friend, Pandit Govind Malaviya tried to go behind the screen and give us an idea about certain intrigues that, according to him, were responsible for bringing the general insurance companies within the scope of some of these provisions. According to my hon. friend it was originally not intended to bring the life insurance companies within the provisions relating to limitation of expenses, but that the real object was to impose a control upon the expense ratio of the general insurance companies from an ulterior motive, and for the sake of appearance, according to my hon. friend, the life insurance companies were brought into the picture. Sir, I have no knowledge of what may have transpired behind the scene, but if the reference is to the Bill that was reported upon in 1945, where, for the first time, the Select Committee made proposals for statutory fixation of expenses both in the case of life insurance and general insurance, I may point out that whatever may have been the origin of these proposals, the idea that the expenses of life insurance companies should be rigidly controlled was independently justified. I have before me a separate minute which was appended to the Report of the Select Committee by Mr. T. T. Krishnamachari. There he was sceptical about the wisdom of bringing in non-life business into the scope of these limiting provisions. That went to indicate that that Select Committee actually considered the cases of life insurance companies and the general insurance companies separately on the merits and not, as has been tried to be made out here in this House that the one was tacked on to the other, although it was not intended initially that both should be governed by these limiting provisions. Sir, I would in this connection read a sentence from the minute of dissent of my hon. friend Mr. T. T. Krishnamachari. He said: "I would be loath to support any action by the state in this particular matter, unless a large majority of Indian companies doing non-life business wish for this kind of limitation to be fixed."

Now, Sir, whatever differences of opinion there may prevail at the moment in the ranks of life insurance companies, I am happy to find that there is no difference of opinion whatsoever among the general insurance companies as regards the desirability of fixation of expense ratios. Sir, apart from the opinion which the representatives of the general insurance companies expressed during the various stages of the consideration of this measure, I find from the latest issue of *Commerce*, a well-known commercial journal of Bombay, that the General insurance interests have once again recorded their declaration that they want expenses of the general insurance companies to be limited and limited by statutory provision, and not by the method that we have envisaged in this Bill and which according to Government makes for a more elastic procedure than is provided by the suggestions made on behalf of the general insurance companies. Now this journal observes as follows, while welcoming this decision. It says, "Opposition to the proposal of limitation may however be continued by the agents. I should be very sorry to think that any hon. Member who has spoken in opposition to this opinion of the general insurance companies, but at the same time trying to represent the views of the general insurance companies has been misled by the agitation which as pointed out by this journal, seems to be continued by the agents and not by the general insurance companies themselves. Now, this journal goes on to observe as follows:

"It augurs well to know that the insurers at least have stood up boldly to present a united front in respect of this most controversial question."

Sir, in addition to this, I should like to draw the attention of the House to a letter which I have just received from the President of the Indian Insurance Association, which is the association representing the interests of the general insurers, taking exception to some of the observations made yesterday in the course of the debate in connection with the general insurance companies.

[Shri K. C. Neogy]

Now, this gentleman who is the President of the association and has been president for a number of years, and is himself associated not with a very big general insurance company but with what may perhaps be called a middle-sized company, says in his letter to me, in justification of the support which the general, I mean the Indian General Insurance Companies have given to this measure, as follows:

"Our Companies even with 27 years standing have not been able to build up a strength and the position that we should normally have been able to do if we had good and healthy working conditions."

And further:

"We never had the intention of making limitation of expenses a ground for snatching away the business of the non-Indian Companies. All that we wanted to do was to protect the interests of the Indian General Insurance market from the onslaughts of powerful groups of foreign companies...."

Then again:

"...it must be realised that general insurance business constitutes a very important sector in servicing the national economy and only a well organised and strong general insurance market can look after the growing needs of this country."

And he says with reference to the allegation that was made yesterday that these smaller general insurance companies had been coerced to agree to the provision regarding limitation of expenses:

"...I would like to state categorically that this is nothing but a myth and that the consent of the companies concerned was voluntarily available because the Companies have come to fully realise that there is only one salvation for the Indian Insurance to survive and that is to enforce upon themselves voluntarily a ceiling on expenses."

Shri B. L. Sondhi: May I ask the hon. Minister what is the percentage of reinsurance that falls to the foreign companies?

The Honourable Shri K. C. Neogy: That raises a different problem altogether. What I say is that the unanimity with which they have supported these proposals is remarkable. That is what I am pointing out to the House.

Shri B. L. Sondhi: The solution for the whole thing is nationalisation.

The Honourable Shri K. C. Neogy: Yes, those who do not want restrictions of this nature glibly talk of nationalisation.

Sir, there has been some amount of misapprehension in the minds of some hon. Members in connection with the reference to securities guaranteed by the Secretary of State. I am advised that this merely describes the category of existing securities, and it is perhaps necessary from the technical point of view to continue to describe these securities by this particular description. But if, on further examination of the matter it is possible to alter the description in a manner suitable to our present conditions, the matter would certainly be considered in the Select Committee. I need not add that we do not acknowledge any Secretary of State to-day.

Sir, as regards the proportion of investments held in non-Indian securities, it is a fact that the non-Indian companies hold and they are permitted to hold under the present law a proportion of their investments in non-Indian securities. The position would considerably change in future, but in all fairness we had to give to these interests sufficient time for the purpose of making the necessary adjustments in their portfolios, and we are advised that the period which we have proposed in this Bill is nothing very unreasonable. If, for instance, we were to have these non-Indian securities unloaded on the market, which would be the case if we were to be more strict about this time limit,

any unloading on a large scale within a short period of time may have had a very disturbing effect upon the money market. Not merely that, but incidentally, the security of the policy holders as a class might be affected by any hasty unloading of such securities. It is, therefore, even necessary from the point of view of the policy holders to be a little guarded in enforcing these interim provisions.

Sir, a good deal of apprehension has been expressed as regards the interests of the smaller companies, both of the life and as also of the general class.

Shri B. L. Sondhi: Smaller or younger companies?

The Honourable Shri K. C. Neogy: It is feared that smaller insurance companies of both these categories might suffer if the provisions of this measure were to be enforced strictly against them. I should like to come once again to the notice of this House the provisions regarding the setting up of statutory insurance councils on which would be represented not merely the bigger companies but also the smaller companies and the Government themselves have taken the power to nominate if need be, representatives to represent such categories of companies as may not succeed in securing adequate representation otherwise. Even when the insurance associations have made any recommendations regarding the scale of expenses, that could be given effect to only by the Superintendent of Insurance. There again, the Government would take into account the special interests of any group that might require to be specially safeguarded. As a matter of fact, it is specifically laid down in the relevant provisions in this Bill itself that the scales of expenses might differ in the case of different groups of companies, meaning thereby that the scales would not necessarily be uniform, and that there would be a good deal of scope for lenient treatment of the smaller companies in this matter. I have not the least hesitation, therefore, to give an assurance to the smaller companies that their interests would not, in the least, be affected by the operation of these clauses of the Bill, and if they do not find adequate representation on the bodies that we contemplate, they will always have the opportunity of representing their case to the Government.

Sir, I think we have had a very useful discussion on the whole of this measure, and as I began by saying, this represents perhaps the largest common measure of agreement as between different viewpoints, and as regards different interests, which are directly affected, and it is in that spirit that I would commend this motion to the House. Let me assure the House once again that all the various specific suggestions that have emanated from different hon. Members who have spoken will be fully taken into consideration by the Select Committee and I hope that the measure that will emerge out of the Select Committee will command the unqualified support of this House.

Mr. Speaker: The question is:

"That the Bill further to amend the Insurance Act, 1938, be referred to a Select Committee (consisting of Shri M. Ananthasayanam Ayyangar, Shri T. A. Ramalingam Chettiar, Shri Arun Chandra Guha, Dr. B. Pattabhi Sitaramayya, Shri B. L. Sondhi, Shri L. Krishnaswami Bharathi, Shri Prabhudayal Himatsingka, Shri Mohan Lal Gautam, Shri Rohini Kumar Chaudhuri, Shri M. Tirumala Rao, Shri B. A. Khimji, Shri M. R. Masani, Shri Mahavir Tyagi, Shri Ram Nath Goenka, Shri Ajit Prasad Jain and the Mover, with instructions to report on or before the 15th December, 1949 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.

TAXATION LAWS (EXTENSION TO MERGED STATES AND AMENDMENT) BILL

Mr. Speaker: The next item in the agenda to be taken up will be the Bill to extend certain laws relating to taxation on income to certain areas. I understand that the hon. Dr. John Matthai is moving a motion for referring the Bill to a Select Committee instead of moving that the Bill be taken into consideration.

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

"That the Bill to extend certain laws relating to taxation on income to certain areas administered as parts of Governors' Provinces or as Chief Commissioners' Provinces and further to amend certain laws relating to taxation on income, be referred to a Select Committee consisting of the hon. Dr. B. R. Ambedkar, Shri M. Ananthasayanam Ayyangar, Prof. N. G. Ranga, Shri S. V. Kriannamoorthy Rao, Pandit Hriday Nath Kunzru, Prof. K. T. Shah, Shri R. K. Sidhva, Shri B. Das, Shri B. P. Jhunjhunwala, Shri V. Ramaiah, Shri B. N. Munvalli, Shri R. L. Malaviya, Shri G. S. Guha, Pandit Thakar Dass Bhargava, Dr. Mono Mohon Das, Shri Deshbandhu Gupta, Shri Mahavir Tyagi, Shrimati G. Durgabai, and the Mover, with instructions to report on or before the 16th December, 1949, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, since the motion before the House now is for reference of this Bill to the Select Committee, I do not think it is necessary for me at this stage to go in any detail into the provisions set out in the Bill. All that I propose to do by way of starting off the discussion on the motion is to indicate to the House the scope of the Bill and to give a brief summary of the main provisions in it.

The object of the Bill as explained in the Statement of Objects and Reasons is to replace two Ordinances relating to taxation matters which have been in force for some time and to have them replaced by enactments. In addition to the translation of these Ordinances into Acts of the legislature, there are two new amendments which are embodied in the Bill which relate to more or less minor matters. One is to the effect that Government should be authorised to constitute single member tribunals for dealing with appeals in regard to Income tax. And the second new amendment is to grant exemption from tax of the income of scientific research associations. Barring these two amendments, the rest of the provisions in the Bill are covered, as I said, by the Ordinances which are in force. They cover a variety of matters relating to taxation on income.

I will give the House a brief summary of the changes sought to be made in the present taxation laws by these provisions. The first matter dealt with in the Bill is the extension of the Income-tax Act, Business Profits Tax Act, and the Finance Act to the Merged States, that is to say, States which have been merged in the provinces, or which have been constituted as Chief Commissioners' provinces. Further, where these laws are extended, the Bill provides for grant by the Central Government of exemptions or reductions in the matter of Income-tax in cases where special hardships are likely to arise by extension of these laws to merged States. As a result of the extension of these Acts to the merged States, it is necessary to make various consequential changes in a number of existing legal provisions, for which the necessary provision is made in the Bill. That is the first group of matters.

The second is to provide for grant of special concessions to industrial undertakings with a view to encouraging production. These concessions take the form of extra depreciation allowances in respect of new plant and machinery and new buildings, and also for the exemption from Income, Super and Business Profits Act taxes of new concerns up to a limit of six per cent. of the capital employed in those concerns.

Thirdly, the Bill provides for provisional assessment of income entered in the assessee's returns, pending regular assessment after detailed enquiries.

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TAXATION LAWS (EXTENSION TO MERGED STATES AND AMENDMENT) BILL 303

The object of this measure as of the previous measure was to provide a check upon the inflationary pressure which became so acute towards the end of the last year. As a matter of fact, these Ordinances were promulgated towards the end of the last year when the Government were engaged in considering measures for preventing further accentuation of the inflationary position.

The fourth group of matters is the extension for a period of three years of the repayment of compulsory deposits in connection with Excess Profits Tax. That again was originally introduced in the form of an Ordinance as an anti-inflationary measure.

The fifth group of matters relates to the granting of certain additional powers to the Income-tax Investigation Commission to enable them more satisfactorily to discharge the duties which the House has placed upon them. Briefly, these are powers to call for information from any person or company likely to be in possession of information which would help the Commission in its enquiries, to grant immunity from prosecution or penalties to people who give information, to make agreed settlements with assesseees whose cases have been referred to the Commission and to lay down certain procedure for searches on the lines of the Criminal Procedure Code.

The last matter with which this Bill deals is that in the case of the Gandhi Memorial Fund, provision should be made for the removal of the exemption limit in regard to donations made to the Fund. As the House knows, the exemption granted in respect of donations to charitable associations is limited to an amount of two and a half lakhs or a certain percentage of the income, five per cent. in the case of companies and ten per cent. in the case of individuals. In view of the great national importance of the Gandhi Memorial Fund, it has been considered necessary to place it upon a special footing and the exemption limit is sought to be completely removed.

This is briefly the scope of the Bill. Many of the matters with which the Bill deals are minor matters more or less of a routine character but there are certain matters in regard to which I have been given to understand that there is very considerable difference of opinion and it is for this reason that Government decided to replace the original motion by a motion for reference to a Select Committee.

There is just one point that I should like to mention in that connection. These Ordinances are likely to expire within a short period. One of them as a matter of fact will expire in the course of this week. It is the practice of Government and a convention which I believe has been accepted by the House that while Parliament is sitting, the Executive should not promulgate any Ordinances which, if I may say so respectfully, is a very wholesome convention. Now in view of the very special difficulties in which we would be placed if some of these Ordinances granting for example, special concessions to business undertakings with a view to encouraging production were not continued, it might have a serious disorganizing effect upon the economy of the country.

I should like also to mention briefly to the House the circumstances in which the presentation of the Bill to the House has been delayed. As I explained to the House on a previous occasion these Ordinances which were issued towards the end of last year were put in the form of a Bill which I placed before the House during the budget session but during that session the House had a very heavy agenda to work through and it was not possible to take that Bill up for consideration and then for circumstances with which the House is perfectly familiar, there was no sitting of Parliament between the termination of the Budget Session and the beginning of this Session. As soon as this Session commenced the House will remember I asked for permission to withdraw the original Bill so that the more urgent matters covered by Ordinances

[Dr. John Matthai]

might be presented in the form of a revised Bill. This Bill was introduced last week so that the House will appreciate that there has been no avoidable delay on the part of the Government in bringing this matter to the notice of hon. Members. In the circumstances, I hope the House will not consider Government disrespectful to the House if they have to extend this Ordinance until such time as the House is in a position to dispose of this Bill.

Mr. Speaker: Motion moved:

"That the Bill to extend certain laws relating to taxation on income to certain areas administered as parts of Governors' Provinces or as Chief Commissioners' Provinces and further to amend certain laws relating to taxation on income, be referred to a Select Committee consisting of the hon. Dr. B. R. Ambedkar, Shri M. Ananthasayanam Ayyangar, Prof. N. G. Ranga, Shri S. V. Krishnamoorthy Rao, Pandit Hriday Nath Kunzru, Prof. K. T. Shah, Shri R. K. Sridhva, Shri B. Das, Shri B. P. Jhunjhunwala, Shri V. Ramaiah, Shri B. N. Munavalli, Shri R. L. Malviya, Shri G. S. Guha, Pandit Thakur Das Bhargava, Dr. Mono Mohon Das, Shri Deshbandhu Gupta, Shri Mahavir Tyagi, Shrimati G. Durgabai, and the Mover, with instructions to report on or before the 16th December, 1949, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Shri Biswanath Das (Orissa: General): Sir, I welcome the Bill and I feel it my duty to place before this House certain aspect of the question for consideration of the Select Committee. I come from a province which has got merged in it 25 States, an area practically as big as the province of Orissa.

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

This uncommon thing was made possible through the efforts of the hon. Deputy Prime Minister and the States Ministry by an agreement with the State Rulers in December 1947. That was practically the beginning of a process of merger of small states with the neighbouring provinces. The Rulers signed the agreement—so far as my recollection goes—by the middle of December 1947. From Orissa this process extended to C.P. and thereafter to Bombay and to other provinces. By 1948 most of the minor states had merged in the neighbouring provinces. India with her financial difficulties ought to have been vigilant to make good of her financial difficulties taking advantage of the merger of the States. The State Rulers functioned in practically almost all the smaller States as the Executive and Legislative authority taking upon themselves the responsibility of levy, assessment and collection of income-tax, super-tax and all the taxation that is contemplated by this legislation. With the merger of these small states into Provinces, the Provinces could only discharge their responsibilities and utilize their sources of taxation to the extent possible with the result that in most of the merged states the central sources of revenue are practically left untouched to the benefit not of the people in general, not of a Provincial Government which was called upon to run the show but to the advantage of the tax-payers who would otherwise have been made to pay the taxation. Sir in the result that from 1948 to 1949 you practically gave these people a blank cheque to go on with their business without paying tax. That is the convenient position in which the business community in these states were left. I think the hon. the Finance Minister and the Finance Ministry have a duty to explain in this regard. Why the Finance Department was silent over this important aspect of the question? It must be clearly understood that the Rulers signed agreements by handing over charge of administration to the Centre and it is the Centre that in theory and in fact took charge of the States in the result that the Centre called upon the provinces to take charge of administration and these provinces actually were in charge of administration from 1st January 1948 as agents of the Centre till it has been declared authoritatively and by means of legislation and Statute by

the Centre as merged. Therefore I feel that the hon. the Finance Minister has a duty to explain to this House why this period of lax occurred so as to enable the business community of these States who constitute a fourth of the population and practically a third of area to go free from paying any tax to the Centre. Of course all these small states do not comprise a fourth of the population nor a third of the area but they certainly comprise a substantial portion of the area.

It must be said in this connection that these states are conclaves on two counts. One count is the scope for tax evasion which the hon. Finance Minister has so many times complained on the floor of the House. This merger removes the difficulty once for all with the result you have the advantage of at once extending the provisions and utilising your powers of levy, assessment and collection of taxes. The ruler himself was collecting his taxes and it is left to you either to continue collecting the same on the same scale or apply your instruments of taxation, assessment and realisation. Why should you leave a gap?

Having said so much about the evasion of taxes, I speak of the other door left open by this Bill. For whom is it? Again for those people who can talk loud and plead vehemently and use their money to take the Government from court to court. You reserve powers for consideration for this class. Why show any consideration I do not see. If at all any consideration is necessary it should be limited to certain aspects of the question, namely, the small businessmen or the petty moneylenders of the mofussil areas. It is fair that I should state the reason why I plead for these unfortunate people.)

It is a wellknown fact that in the states the level of prosperity among people is very low and the mofussil money-lenders and businessmen have to pay very often to state officials or even to the rulers of the petty states in the shape of *nazaranas*. Therefore if at all there is room for consideration it should be limited only to this class of people. These mofussil money-lenders and petty businessmen in the states have not been benefited by the rise of prices during the war years. It is because the rulers of the states, be it said to their credit, had kept the food prices fairly low.....

Dr. P. S. Deshmukh (C.P. and Berar: General): They have benefited during the last year and a half.

Shri Biswanath Das: I know. These petty traders and small money-lenders have not been benefited even by the war year prices. My hon. friend Dr. Deshmukh has drawn my attention to one aspect of the question, namely, that this interregnum period of one year has been beneficial to them along with the bigger exploiters of the community. I admit, but to what extent? It is in that period also that these restrictions regarding the free movement of cereals were imposed as usual with the result that the variation in prices between Indian India and States India was kept distinct. My friend will be wrong in thinking that these unfortunate people have been benefited to the extent that people in Indian India had been. Therefore if at all there is any consideration to be provided for, it should be limited only to this class of people. To what extent I think it is reasonable, desirable and necessary. I do not see therefore any justification for the loophole provided in clauses 7 and 26. If you keep the door wide open, be prepared for these people coming to you for permission, not the people who suffer or have already suffered and who are bound to suffer. In this country, whatever you might say the mofussil money-lenders, even in advanced provinces or districts, have not been able to keep even today their accounts which would satisfy the income-tax officials. That is so after the working of the Income-tax Act in Indian India for the last so many decades. I would request you to imagine the difficulties of these

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unfortunate people, the mofussil money-lenders and petty businessmen, who certainly deserve consideration at the hands of the income-tax officials. So consideration should be shown to these people.

In these states you have various kinds of business activities—transport services, mines and minerals. Specially in my province, in the merged states as also in the Central Provinces there have been very good mineral resources which are being exploited by the business community. I do not see any reason why these people who are making tons of money in these times should be left free from taxation even for a year. I record therefore my stern and strong protest against the provisions which lay down that the Bill should come into operation only from the 1st of April 1949. I plead that this is unfair to the general tax-payer and to the financial needs of India as a whole. You are not benefiting the villager but a class of people whose duty it is to pay to the central exchequer.

Having said so much about extending the taxation provisions to these merged states and having recorded my protest against the opening of the door wide for people who do not deserve sympathy and lastly having pleaded the case of a class of people who deserve sympathy and consideration, I go on to the other aspect of the question, namely the question of allocation.

As the House knows, all income-tax is shared between the provinces and the Centre. What have you done? You have kept quiet. You can afford to do so for you have your Nasik Printing Press. There is paper enough to print money and you can go on. The hon. Finance Minister may nod his head but I know that he has behind him this reserve force. But what about the unfortunate provinces of India? They have nothing to fall back upon. Nothing. While speaking of Provinces, there are Provinces and Provinces. My hon. friend the Finance Minister hails from a Province which is rich and which can afford to throw off money. But think of the unfortunate Provinces. (An Honourable Member: Orissa!) Not Orissa alone, Sir. We are in the happy company of too many to be enumerated here. Why think of Orissa alone? Think of Assam (An Honourable Member: Of West Bengal) or think of West Bengal even, or of East Punjab and so many other States Unions. As I said we are in the happy company of so many friends. I am not pleading for myself. But I have a right to ask the hon. the Finance Minister why after having thrown these merged States on the Provinces and having asked the Provinces to raise the level of administration of the States to the level of the Provinces by undertaking to pay in full, to the extent necessary and desirable, salaries to the services in line with the Provinces . . .

Dr. P. S. Deshmukh: Is it not raising all the time, it is lowering also.

Shri Biswanath Das: No, it is nowhere. My hon. friend who had so much to do with States' administration is doing grave injustice to himself if he says that. Of course he as a Diwan was getting a fat salary which no Provincial Ministers and officials are getting. But I would beg of him to forget his service and his salary. It is a very well known fact that the officials of States were paid far less salaries than those of provincial officers, cadre for cadre.

Prof. N. G. Ranga (Madras: General): They were expected to take bribes!

Shri Biswanath Das: Yes, I know. I do not propose to defend those small scales of pay. I am out for enhanced emoluments for keeping a man above want. You have asked Provinces, who are none other than your own agents, to raise the standard of the scales of pay of these officials. Speaking of my own experience in regard to the pay of these officials, in certain places in Orissa

eight per month?—yes, Rs. eight, seven or six per month. And mind you, Sir, these salaries have been enhanced to Rs. 24 or 25 all at once. The police people were in some States getting Rs. ten per month. Their pay has been now enhanced to Rs. 30, 35 or 40 per month. All this has to be met out of the provincial exchequer. How can you expect your agent to meet these heavy demands without your assistance? You may agree to forego your income—you can do anything for yourselves—but you have no business to expect the same thing from your agent. Therefore I have a right to ask the hon. the Finance Minister to state the justification he has for preventing the Provinces in coming forward with their bills to the Centre for payment, because they undertook the administration of these merged States as the agent of the Centre.

Having stated about the money which they have spent I come to the third aspect of the question, namely, what are you going to do in terms of article 278 of the New Constitution?

Shri R. K. Sidhva (C. P. and Berar: General): That has not yet come into operation.

Shri Biswanath Das: My hon. friend Mr. Sidhva says that it has not yet come into operation.

Mr. Deputy-Speaker: Is it not to be allocated according to the population and the amount received?

Shri Biswanath Das: I am coming to it and I am going to state the position. I know that article 278 has not yet come into operation. But we all know that we have passed the Constitution Act. Certain articles of the Constitution are today in operation and the rest is going to come into operation from the 26th of January. In terms of this article it takes two years for the allocation to be effected by the Commission. In between 1949 and 1951 my hon. friend has already appointed an official—if the newspaper reports are correct that Mr. Deshmukh, the former Governor of the Reserve Bank of India, has been called upon to make an enquiry into this question and report to the Government. I have a right to know whether this question has also been referred to Mr. Deshmukh, because the Sarkar Committee has made no recommendations in this regard. It has not taken into account the question of merged States and the allocation of their share of Income-tax. My hon. friend has not given any inkling on this question. I have a right to ask what he has done in this regard.

Having stated that I now come to record my protest against the Sarkar Committee report. I will never be a party to the allocation of Income-tax on the basis of the Sarkar Committee report. My hon. friend knows how the Percy Committee as early as in 1932 has stated that the allocation of Income-tax on the basis of realisation will be a grave injustice to other Provinces while it is to the benefit of Provinces like Madras, Bombay and Bengal. Under these circumstances it was unfortunate that this so-called Financial Expert Committee should have been appointed by the Constituent Assembly, consisting of gentlemen only from Madras and Bengal to the utter detriment of other Provinces. (An Honourable Member: Who are the people?) Whoever they are, I am not going to accept the recommendations of that Committee which is heavily loaded with interested recommendations. Under these circumstances I record my voice of protest of other Provinces also against these recommendations.

Dr. P. S. Deshmukh: Is this not a wrong place to record this protest?

Shri Biswanath Das: Absolutely not. It is not the wrong place. I am within my rights because the legislation that is proposed to be undertaken in this regard relates to all the taxes about which I have been speaking.

Mr. Deputy-Speaker: Income-tax comes under the general Finance Bill, and the hon. Member is thinking in advance.

Shri Biswanath Das: You are aware of the fact that the Government of India deputed two officers.....

Mr. Deputy-Speaker: But is a general discussion of that nature so relevant? The hon. Member would certainly help the Select Committee in giving his suggestions as to how the provisions may be modified. Or, if he is opposed to the principle of the Bill he can say "these are the grounds on which I oppose it". But if it is neither the one nor the other but a general consideration as to how the money acquired is to be distributed, I think, there is no provision here regarding allocation.

Shri Biswanath Das: The taxes that have been enumerated here are taxes which are going to be shared between Provinces and the Centre. As such I have a right to say that while I welcome, though late, the imposition of these taxes, the extension of these taxation measures to these merged States, I will not agree to the system of allocation unless it is properly done.

Mr. Deputy-Speaker: That is not the subject-matter of this Bill.

Shri Biswanath Das: That is the subject-matter and I have a right of protest. Therefore, I would request the hon. the Finance Minister and the Select Committee to bear all these points in view. I am not pleading for Orissa and there is nothing shameful if I do it.

Shri Suresh Chandra Majumdar (West Bengal: General): Sir, are we discussing here the matter of allocation?

Mr. Deputy-Speaker: No, the hon. Member has referred to it incidentally and it has concluded there. We need not go into that matter now.

Shri Biswanath Das: Before I conclude, I would again request you, Sir, in the name of these two unfortunate classes of people whom I have already mentioned—the small businessmen and the moffussil moneylenders—that for them some protection is necessary in these merged States. Most of these merged States are still in the early part of the twentieth century and to expect up-to-date recording and accounts and the rest from these people will be a terrible thing for them. I would appeal that necessary provisions be made in the body of the Bill for certain relaxation in this regard to this class of people.

Shri Mahavir Tyagi rose—

Some Honourable Members: Sir, he is a member of the Select Committee.

Mr. Deputy-Speaker: Yes, he is a member of the Select Committee.

Shri Mahavir Tyagi (U.P.: General): Are members of Select Committees outlaw?

Mr. Deputy-Speaker: As the time is short, I will strictly follow the Speaker's convention here.

Shri Mahavir Tyagi: Then may I put a question to the hon. the Mover? I don't want to make a speech. I want to know this of the hon. Minister. Is it the meaning here to tax the residents of those merged States on the income which they earned during the days when the States concerned were not a part of the Union and had not acceded to the Union? Is that the meaning?

The Honourable Dr. John Matthai: May I explain. Under the Ordinance which is now in force, we have issued an order to the effect that the Indian rates of income-tax would be applicable only after the date of merger which would be August 1949. All income previous to August 1949 will be subject to original rates of taxation if income-tax laws were in force in the State.

Shri Mahavir Tyagi: What is the convention generally? When you tax people here in India, is it the income of the year which you tax or you realise the taxes in advance?

The Honourable Dr. John Matthai: The actual position under the order to which I referred would be this. If you take the Dewali year to be the usual accounting year in any particular State, then it is only the income in respect of two months of the current year which would be subject to taxation at the Indian rates. That would be the accounting year. The income of that year would be subject to assessment in the following year, that is to say in 1950-51, so that in 1950-51 the income-tax rates in India would apply only to two months' income earned in the previous year. Actually, assessment on the full income would become operative only during the assessment year 1951-52.

Thakur Krishna Singh (Residuary States): Sir, I want to ask a question. This Bill, when it becomes law, would be applicable from the 1st of April 1949. The assessment year will be 1949-50. For that assessment year any income that has accrued in 1948-49 will be taxable. That means that that income will be taken into consideration while calculating the assessment year 1949-50. Take for instance my own State, the Tehri-Garhwal State which merged on the 1st August 1949. The assessment year 1949-50 would mean that the income derived in 1948-49 will be taken into consideration when making the assessment for 1949-50. The Tehri State merged on the 1st of August 1949. The Income-tax Officer has published a notice in the *Hindustan Daily* that the residents of Tehri-Garhwal should give a statement of the income in 1948-49 so that he may levy an income-tax for the year 1949-50. How can that advertisement and the statement of the Finance Minister be reconciled?

The Honourable Dr. John Matthai: The hon. Member may rest assured that the position in regard to the State that he represents is precisely what I indicated in answer to Mr. Tyagi, in spite of all the considerations that he has urged. He can take it from me.

Thakur Krishna Singh: Then is the notice wrong?

The Honourable Dr. John Matthai: I will explain it in the Select Committee. It is a technical point.

Dr. P. S. Deshmukh: Sir, nobody can quarrel with the hon. the Finance Minister for bringing forward this Bill, and if I understood the spirit of my friend Mr. Tyagi's questions, I was rather surprised that he was concerned about the levy of income-tax on any persons in the merged States. I think he wanted to know what particular period those persons will be taxed for. As the taxation the States peoples were subjected to was comparatively less, I thought our concern should be in the opposite direction. Sir, this is a somewhat complicated matter. Of course we are getting used to the situation where under particular circumstances we must promulgate Ordinances because there is no time to enact legislation. And then we come forward to this House and say that the Ordinances are about to expire and therefore we must as hurriedly as possible pass the Ordinances into laws. My complaint with regard to this measure is that we have very insufficient data before us. The various States which have been merged were at different stages of development. Nonetheless there have been attempts at industrialisation in many of these States and the number of agreements entered into between the capitalists and the ~~States~~ and the concessions that were given in each State are varied greatly. You must also remember that hardly any State was subjected to income-tax or other taxes to the same extent as the so-called British India. There were of course other forms of taxation which yielded the State certain revenue, but so far as capital or income were concerned, most of the States did not have taxes imposed on them on any substantial scale. We are certainly going to support the proposed Bill and also probably most of the clauses proposed by the hon. the Finance Minister more or less as they stand. But I for one would desire to have more complete information about the condition and state of affairs in these merged States, especially regarding industrial concerns which have come into being because of the extra protection they derived from the rulers of those

[Dr. P. S. Deshmukh]

States. In many cases you will find that the State itself has either invested money or the State was content to derive some subsidiary benefit from the establishment of certain industries and therefore there were many concessions given which were in many cases in addition to any direct taxation. I think I am correct in saying that all of us are in the dark as to the exact position about this whole matter. Actually, as I look into the Bill, I find that in more than one article there is a provision to see that more concessions are given and no hardship is caused to any of those who are liable to come under the provisions of this Bill. I do not see why we should give recognition to these concessions without having detailed information. There may be certain cases where concessions are necessary, but merely because of the fact that income-tax is to be levied for the first time it is no excuse whatever that the rate should not be of the same standard as it prevails in the rest of India. My reason for saying this is that most of these industrialists have reaped tremendous advantages—advantages which were not available to their competitors in the so-called British India. Because the rulers were anxious that their States should be industrialised, there were many concessions given to them. They not only gave them raw materials but they gave several different facilities. They also entered into agreements that they will be liable to pay no taxes whatever for a certain number of years. We would like to know what is to happen to these agreements. Are they to be set at naught or are they to be *ipso facto* ratified? What is the exact position? I do not think any attempt is made to investigate into the circumstances and nature of these agreements; to what extent their continuance would benefit the people and the capitalists or industrialists. Even though it is necessary to pass this Bill because the Ordinance is going to expire, I would request the hon. the Finance Minister to make a serious attempt to keep the House well informed as to the situation. Then alone it would be possible for us to give our opinion as to whether a certain group of individuals are deserving of any concession or not. We are passing this legislation and giving power for granting these concessions without knowing the facts of the situation. I would refer to clause 27. It says: There are also other proposals where it is contemplated that certain leniency will be shown; certain exemptions will be granted and certain reductions will be accepted. We have no quarrel with them if they are justified, but for want of information it is impossible to say whether they are justified or not. If this whole thing is going to be left to individual Income-tax Officers or other authorities created by us, I do not think it is correct that this House should be asked to give their assent to a Bill about the effects of which they are ignorant. While supporting the reference of this Bill to a Select Committee, I would again request the hon. the Finance Minister to give us some more concrete idea as to how this is going to affect the States which have been merged, because on these provisions are going to hang the fate and prosperity of the provinces in which they are merged, since the revenue that is derived from these areas will hereafter go to the provinces in which they are merged. Therefore, the capacity to discharge the responsibility that has been placed upon the shoulders of those provinces wherein those States have been merged will be affected largely by the way in which these provisions are administered. From that point of view also, it would be worth while to have greater information than is available at the present moment. Although for fear that the Ordinance will expire and there will be nothing on the Statute Book we are agreeable to pass this Bill, I would very much wish that we should not legislate, so to say, in the dark, but should know what we are doing and what the result of our action is going to be.

चौधरी रणवी रसिंह: सभापति महोदय, इस प्रस्ताव का समर्थन करते हुये मैं

यह कहे बगैर नहीं रह सकता कि मुझे कोई कारण नहीं दिखाई देता कि इस बिल को

सिलेक्ट कमेटी को भेजा जाय। खास तौर पर ऐसी हालत में जबकि नये विधान के नीचे सैण्ट्रल सरकार ने राजाओं को तन्खाह देना अपने जिम्मे लिया है। ऐसी सूरत में यह सोचना कि रियासतों के भाइयों को दूसरे ढंग से टैक्स किय जाय, जायज नहीं है। उनके टैक्सेशन के प्रिंसिपल (principle) का भी वही होना चाहिये जो बाकी हिन्दुस्तान के प्रान्त-वासियों के लिये है।

एक बात जो श्री विश्वनाथदास ने कही, मैं उसका विरोध किये बगैर नहीं रह सकता, वह इस लिये कि चूँकि कुछ थोड़ा बहुत हमें रियासत वालों से रियासत के रहने वालों और वहाँ के साहुकारों से वास्ता पड़ा है। मनीलैण्डर्स (money lenders) की सम्पत्थी (sympathy) में उन्होंने कुछ बातें कहीं। वह कहते हैं कि उनके पास कोई एकाउण्ट्स (accounts) नहीं हैं। यह ठीक हो सकता है लेकिन इस बिना पर उन्होंने कई लाख मेहनत करने वाले किसानों का खून चूसा होगा। तो सिर्फ इस लिये कि उन्होंने अपना कोई एकाउण्ट नहीं रक्खा, उनके साथ रियायत की जाय, मैं इसका कोई जायज कारण नहीं समझता। मैंने तो ऐसा भी देखा है और आप भी पटिबाला स्टेट्स यूनियन के अन्दर चले जाइये। वहाँ जितने पक्के मकान आपको देहात में मिलेंगे वह तमाम साहुकारों के मकान मिलेंगे। लेकिन उन साहुकारों ने कभी मेहनत नहीं की, घर से बाहर नहीं गये। वह सब रुपया किन लोगों का उनके पास आया? वह सबका सब किसानों का कमाया हुआ है जो उनके पास गया। इस तरह से वहाँ के उन लोगों को जिनको छोटे छोटे व्यापारी कहते हैं, उनके मुनाफे की कोई हद नहीं थी, इस बात से कोई इनकार नहीं कर सकता। लेकिन इससे भी कोई इनकार नहीं कर सकता कि उनके पास हिसाब रखने का कोई अच्छा ढंग या तरीके का ज्ञान नहीं था। अगर उन्होंने वह अच्छा तरीका इस्तेमाल नहीं किया, या ज्ञान हासिल नहीं किया, इस लिये उन्हें रियायत दे दी जाय, यह मुझे कुछ बहुत ठीक नहीं मालूम देती। लेकिन एक बात मैं भी कहना चाहता हूँ कि चूँकि उन्हें ज्ञान नहीं था इस लिये उनको नाजायज ढंग पर तंग न किया जाय और इसका इन्तजाम जरूर किया जाना चाहिये लेकिन इसका यह मतलब नहीं कि उनके लिये कोई साफ्ट कॉर्नर (soft corner) आपके दिल में हो। इतनी बातें कहते हुये मैं इसका समर्थन करता हूँ।

(English translation of the above speech)

Oh. Ranbir Singh (East Punjab: General): Sir, while supporting this motion I cannot help saying that I do not see any reason why this Bill should at all be referred to a Select Committee, and particularly in such circumstances when under the new Constitution the Central Government have taken upon itself the responsibility of disbursing the salaries of the ruling princes. Under such circumstances it is not at all justified even to think of taxing the States' people in quite a different manner. The principle of taxation for them must be the same that is for the people of the different provinces of the country.

I cannot help opposing a point raised by Shri Biswanath Das and that also for the reason that as yet we have come in very little contact with the States, the

[Ch. Ranbir Singh]

people living therein and the money-lenders. He mentioned certain things in sympathy of the money-lenders. He alleges that they have not got any accounts with them. This is just possible, but by adopting such a method they must have sucked the blood of millions of poor peasants. I do not think this to be at all justified that they should be granted concessions simply for the reason that they have not maintained any accounts. I have come across such cases. You just go to the Patiala States Union. There in the country-side whichever pucca house you would come across will invariably be of some money-lender. But those money-lenders never did any manual labour; they never left their houses; then how did they get all this money? All the money that is with them has been earned by the farmers. No one can deny this fact that there was no limit of the profits earned by these petty businessmen. But at the same time no one can deny this fact also that they did not know of any good system of maintaining accounts. I do not think it to be proper and justified that they may be granted concessions simply for the reason that they did not adopt or get familiar with some better system of maintaining accounts. But I wish to plead that they should not be unlawfully harassed simply for the reason they did not know any better methods. This matter must of course be taken into consideration. But it does not mean that you may have a soft corner for these people in your heart. Saying this much I support the motion.

Shri Vinayakrao B. Vaidya (Bombay States): Sir, I just want to say a word or two on this Bill. I welcome the introduction of this measure, particularly after the assurance given by the hon. the Finance Minister that the States would be taxed after the first of August 1949. Up to now there was an apprehension on the part of the States that they would be taxed from the first of April 1949. That has been removed by the explanation given by the hon. the Finance Minister.

One thing I must say and that is that we people of the States are tired of hearing that the States have remained backward. We have been tired of hearing so much of calumny about the States.

I welcome the decision of submitting this Bill to a Select Committee inasmuch as there are representatives from the States and I hope they will look after the interests of their respective States and see that the States people are done no injustice.

ठाकुर कृष्ण सिंह: मैं पहले जो दक्षिण भारत के रहने वाले हैं उनसे क्षमा चाहता हूँ कि मैं हिन्दी में बोल रहा हूँ। हमारे कुछ मित्रों ने यह फैसला कर लिया था कि हिन्दी में बोलना चाहिये इस लिये मैं सभा के सामने हिन्दी में बोल रहा हूँ। अगर कुछ सदस्य नहीं समझ सकते हैं तो उनको समझाने की कोशिश करनी चाहिये क्योंकि हिन्दी हमारी मातृभाषा है और हिन्दी में ही हमको यहां बोलने की कोशिश करनी चाहिये।

एक माननीय सदस्य: आप जो बोलते हैं वह मिनिस्टर साहब नहीं समझ सकते।

Mr. Naziruddin Ahmad: On a point of order, Sir. This speech in Hindi is open to two objections. If the hon. Member is irrelevant, the Chair will not be able to pull him up, and secondly.....(An Honourable Member: That is a matter for the Chair to decide.)...if he makes any point which calls for a reply, the hon. Minister will not be able to reply him.

Mr. Deputy-Speaker: I am glad the hon. Member has raised this point of order. So far as the Chair is concerned, it will be able to pull him up if

he is irrelevant to the point. So far as the hon. Minister is concerned, if he is not able to follow the hon. Member who wants to speak in Hindi, the hon. Member does not expect a reply to his points either.

The Honourable Dr. John Matthai: I will make every effort to have the gist of the hon. Member's speech conveyed to me in a language which I understand.

ठाकुर कृष्ण सिंह: १५ अगस्त सन् १९४७ के बाद जब कि भारतवर्ष में महात्मा गांधी के उद्योग से स्वतन्त्रता कायम हुई और भारत का शासन हम लोगों के हाथ में आया तब से जितनी छोटी छोटी रियासतें थीं उनका बड़ा भारी प्रश्न देश के सामने था। हम यह मानते हैं कि जिस प्रयत्न से इन छोटी छोटी रियासतों को विलीन किया गया वह तारीफ की चीज है और वह संसार के इतिहास में बहुत भारी चीज मानी जायगी।

जब से यह छोटी छोटी रियासतें विलीन की गईं तब से यह जरूरी हो गया था कि उन पर जो केन्द्र के टैक्सेज (taxes) हैं वह लागू किये जायें। इसमें हम सहमत हैं कि सेंटर (Centre) के जितने कानून हैं वह उन पर लागू किये जाने चाहियें, परन्तु इन करों और कानूनों को वहां लागू करने में जो कठिनाइयां हैं उनके विषय में मैं कुछ कहना चाहता हूँ।

जब इस बिल को सिलेक्ट कमेटी में भेजने का प्रस्ताव आया तो मुझे खुशी हुई क्योंकि इसके सम्बन्ध में मुझे कुछ मतभेद था। इस बिल से जो कठिनाइयां उन रियासतों में होंगी जो कि प्रान्तों में मिला दी गई हैं, वह कठिनाइयां मैं इस भवन के सामने रखना चाहता हूँ। मैं तीन दृष्टियों से इसको भवन के सामने रखूंगा। एक राजनीतिक दृष्टि, दूसरी वैधानिक दृष्टि और तीसरी आर्थिक दृष्टि।

मैं पहले राजनीतिक दृष्टि से इस कठिनाई को इस भवन के सामने रखना चाहता हूँ। मैं टेहरी-से गढ़वाल की रियासत को दृष्टान्त के रूप में लेना चाहता हूँ। यह रियासत, आप सबने अखबार में पढ़ लिया होगा, अगस्त सन् १९४९ को संयुक्त प्रान्त में विलीन हो गई है। १५ जनवरी सन् १९४८ के पहले यहां पर महाराजा का वही शासन था जो कि पहले सब महाराजाओं का हुआ करता था। अनेक तरह के कर और अनेक तरह के कानून वहां पर थे जिनके द्वारा प्रजा से हर तरह से पैसे लिये जाते थे और वह प्रजा के इस्तेमाल में नहीं आते थे।

यह हालत सन् १९४८ ई० के पहले थी। सन् १९४८ ई० में १५ जनवरी को वहां पर जो क्रान्ति हुई वह सब आप लोगों के सामने है, और सबको मालूम है। इस अहिंसात्मक लड़ाई के बाद वहां का शासन प्रजा मण्डल के हाथ में आया। १५ जनवरी सन् १९४८ ई० से अगस्त १९४९ ई० तक शासन प्रजा मण्डल का वहां पर रहा और

[ठाकुर कृष्ण सिंह]

स्टेट्स मिनिस्ररी (States Ministry) उनके काम की देखभाल करती थी। अगस्त सन् १९४९ ई० को जब यह रियासत संयुक्त प्रान्त में मिला दी गयी ती संयुक्त प्रान्त की सरकार ने एक आर्डर (Order) निकाला कि जो कानून वहां पर अब तक थे वही जारी रहेंगे। वहां पर इन्कम-टैक्स (income tax), नहीं था लेकिन इन्कम-टैक्स के बदले में प्रोफेशनल टैक्स, (professional tax) पों, ड्यूटी, कस्टम ड्यूटी और राह-दारी के टैक्स लागू थे। वहां पर विधान सभा के सामने इन्कम-टैक्स के लागू करने का सवाल सामने आया तो बतलाया गया कि इन्कम-टैक्स की जगह पर यहां पर दूसरे टैक्स लागू हैं और इस चीज का इतराज किया गया। वह कानून और पुराने टैक्स जो थे कह पहली अगस्त के बाद पहली दिसम्बर तक जब उसको संयुक्त प्रान्त में पूरे तौर पर मिला दिया गया चलते रहे।

श्री जसपत राय कपूर : अब पांच बज गये हैं, छुट्टी मिलनी चाहिये।

मिस्टर डिप्टी-स्पीकर : अभी आप कितनी देर तक बोलेंगे।

ठाकुर कृष्ण सिंह : कोई १५ मिनट तक और बोलूंगा।

(English translation of the above speech)

Thakur Krishna Singh: At the very outset I crave the indulgence of the people belonging to South India for my speaking in Hindi. Some of our friends had decided to speak in Hindi and so I am addressing the House in Hindi. If some hon. Members cannot understand Hindi then they should better try to learn it, because Hindi is our mother tongue and so we should try to speak here in Hindi.

An Honourable Member: The Honourable Minister cannot understand what you say.

Mr. Naziruddin Ahmad (West Bengal: Muslim): On a point of order, Sir. This speech in Hindi is open to two objections. If the hon. Member is irrelevant, the Chair will not be able to pull him up, and secondly, (An Honourable Member: That is a matter for the Chair to decide.) if he makes any point which calls for a reply, the hon. Minister will not be able to reply him.

Mr. Deputy-Speaker: I am glad the hon. Member has raised this point of order. So far as the Chair is concerned, it will be able to pull him up if he is irrelevant to the point. So far as the hon. Minister is concerned, if he is not able to follow the hon. Member who wants to speak in Hindi, the hon. Member does not expect a reply to his points either.

The Honourable Dr. John Matthai: I will make every effort to have the gist of the hon. Member's speech conveyed to me in a language which I understand.

Thakur Krishna Singh: After 15th August, 1947 when through the efforts of Mahatma Gandhi the country became independent and we took up the reins of the Government the ponderous problem of the numerous small States faced the country. We admit that the effort whereby these States have been merged really deserve praise and will be acknowledged as a feat of great statesmanship in the world history.

Since the merger of these States it had become imperative to impose upon them the Central Government taxes. We agree that all the Central Government legislations should also be imposed upon them but I like to say a few things about the difficulties that stand in the way of these taxes and laws being imposed there.

When it was moved to refer the Bill to Select Committee I felt happy because I somewhat differed on the provisions of the Bill. I wish to place before the House the difficulties that would crop up as a result of this Bill being applied to those States that have since been merged. I would place these difficulties before the House from three points of view, firstly political, secondly constitutional and thirdly economic.

In the first instance I wish to discuss these difficulties from the political point of view. I wish to mention Tehri-Garhwal State as an illustration. This State as you all might have come to know through newspapers, merged with the United Provinces in August, 1949. Before 15th January, 1948 the Maharaja ruled over this State in the same customary manner of the previous rulers. Many different kinds of taxes and laws were there whereby money was taken away from the people in one way or the other and that money was not used for the benefit of the people.

Such conditions prevailed there before 1948. You all know of the revolution that took place there on the 15th January, 1948. After this non-violent revolution the reins of the State Government came in the hands of the Praja Mandal. From the 15th January, 1948 to August, 1949 the Praja Mandal held the reins of the Government and the States Ministry kept a supervision over its actions. When in August, 1949 the State was merged with the United Provinces then the United Provinces Government issued an Order that the existing laws would continue to be operative there. There was no Income-tax but professional tax, terminal tax, custom duty and poll-tax were being realised instead. When the question of imposing the Income-tax came up before the Legislature then the move was opposed on the plea that instead of Income-tax many other taxes were being realised. The old taxes and laws continued to be in force even after August and existed till 1st December when the State was finally merged with the United Provinces.

Shri Jaspal Roy Kapoor (U. P.: General): It is now five o'clock, we should be allowed to go.

Mr. Deputy-Speaker: For how long will you continue your speech?

Thakur Krishna Singh: I will speak for fifteen minutes more.

Mr. Deputy-Speaker: The House now stands adjourned till 10-45 A.M. tomorrow.

The Assembly then adjourned till a Quarter to Eleven of the Clock, on Wednesday, the 7th December, 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Wednesday, 7th December, 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.

MOTION FOR ADJOURNMENT

PURCHASE OF THE *Blitz* FOR THE ARMY AND WITHDRAWAL OF PRESS PERMIT OF THE *Nation*.

Mr. Speaker: I have received notice of an adjournment motion from Prof. K. T. Shah, Shri Sarangdhar Das and Shri Damodar Swarup Seth which reads as follows:

"That this Assembly do adjourn to discuss a definite matter of urgent public importance, viz., the issue of a circular by the Headquarters, Bombay Sub-Area, General Staff, prohibiting the use of Government funds for purchasing the *Blitz* for any mess or club of all ranks of the Armed Forces in India and the violation of Civil Liberties in the shape of the withdrawal of the Press permit by the Government of West Bengal from the newspaper, the *Nation* of Calcutta since the 3rd December 1949, thereby denying freedom of the press."

I might point out to the hon. Members that the adjournment motion is bad, as it does not follow the provisions of rule 33, sub-rule (ii) which says that not more than one matter can be discussed on the same motion. The hon. Members have mixed up two matters and, therefore, I need not go into the other parts, or other arguments on which also the motion falls through.

CINEMATOGRAPH (SECOND AMENDMENT) BILL

The Honourable Shri R. R. Diwakar (Minister of State for Information and Broadcasting): Sir, I beg to move for leave to introduce a Bill further to amend the Cinematograph Act, 1918.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Cinematograph Act, 1918."

The motion was adopted.

The Honourable Shri R. R. Diwakar: Sir, I introduce the Bill.

Mr. Speaker: The House will now proceed with the further consideration of the motion moved yesterday by the hon. Dr. John Matthai relating to the Taxation Laws (Extension to Merged States and Amendment) Bill.

ठाकुर कृष्ण सिंह : स्पीकर महोदय, कल मैं इस भवन के सामने इस बिल के बारे में यह कह रहा था कि हमें इस पर राजनीतिक दृष्टि से, वैधानिक दृष्टि से और आर्थिक दृष्टि से विचार करना चाहिये। मैं दृष्टान्त के तौर पर देहरी गढ़वाल रियासत का वर्णन इस भवन के सामने कर रहा था जिसको अगस्त सन् १९४९ से यू० पी० गवर्नमेण्ट ने एक्स्ट्रा टैरिटरी (extra territory) के बतौर अपने अधीन ले लिया था। लेकिन इसके अलावा और जो ६ मर्ज्ड (merged) रियासतें हैं उनकी हालत इससे भी खराब है। मैं उनका भी प्रतिनिधि हूँ।

देहरी गढ़वाल में, जैसा कि मैंने कल वर्णन किया था, अगस्त सन् १९४९ के पहले, जब कि यू० पी० सरकार ने उसका शासन ले लिया, बहुत तरह के टैक्स थे। उनको मैं आज भी दोबारा कह देना चाहता हूँ कि वहाँ पर प्रोफेशन टैक्स, कस्टम्स ड्यूटी, चुंगी ड्यूटी, मौजूद थे। और जब हमारी विधान सभा वहाँ पर इनकम टैक्स लगाने पर विचार कर रही थी तो यह सवाल उठाया गया था कि जब तक वहाँ पर यह टैक्स मौजूद हैं तब तक इनकम टैक्स नहीं लगाना चाहिये। और वहाँ के कर्मचारियों ने भी यह सवाल उठाया था कि उनकी तनखाह यू० पी० के कर्मचारियों से कम हैं। यह जो सवाल उठाया गया इसकी वजह से वहाँ इनकम टैक्स नहीं लगाया गया। मैं बतला देना चाहता हूँ कि जो मर्ज्ड स्टेट्स हैं उनकी आर्थिक हालत कैसी है।

देहरी रियासत युक्त प्रान्त के उत्तर में है। एक तरफ तो तिब्बत है और दूसरी तरफ शिमला की छोटी छोटी रियासतें हैं जो हिमाचल प्रदेश में मिल गई हैं तीसरी तरफ जिला देहरादून है और चौथी तरफ जिला गढ़वाल है। वहाँ पांच लाख की आबादी है और पांच लाख आबादी में क्या व्यवसाय है और क्या उनकी हालत है यह मैं वर्णन कर दूँ। वैसे तो उनकी बहादुरी के बारे में आप लोगों ने बहुत सुना होगा कि किस तरह गढ़वाली सिपाहियों की बड़ी बड़ी लड़ाइयों में प्रशंसा की गई, किस तरह हजारों गढ़वाली सिपाहियों ने आजाद हिन्द फौज में अपने प्राणों को अर्पण कर दिया। आज वह प्रदेश आजाद हिन्द फौज के सिपाहियों से भरा हुआ है पर उनको यहाँ फौज में कोई जगह नहीं मिलती है। पेशावर में हमारी गढ़वाली रेजीमेण्ट ने फायरिंग करने से इन्कार कर दिया था, उनके बारे में भी आपने सुना होगा। स्वतंत्रता की लड़ाई में भी गढ़वालियों ने अपना काम किया। सुमन जी ने स्वतंत्रता की लड़ाई में अपने प्राण बलिदान कर दिये। नागेन्द्र सकलानी और मौलू सिंह गोली के शिकार हुये उनके बारे में आपने सुना होगा। इतने बहादुर होते हुये भी जब ये सिपाही अपने घरों को आते

हैं तो वहाँ दरिद्रता देखते हैं, अपने नंगे बच्चों को देखते हैं, अपने यहाँ गन्दगी देखते हैं और उन सब परेशानियों को देखते हैं जो कि इन्सान को हो सकती हैं।

जब तक वह रियासत विलीन नहीं की गई थी तो वहाँ तरह तरह के टैक्स मौजूद थे और तरह तरह के ऐसे कानून थे जिनसे लोगों को परेशानियाँ होती थीं। अब अगर हम फौरन ही पहली अप्रैल सन् १९४९ से, जैसी कि इस बिल की मन्शा है, इसको जारी कर देंगे, तो मैं समझता हूँ कि वहाँ की जो आर्थिक दशा है उसको देखते हुये वहाँ वालों के दिलों में यह शक पैदा हो जायगा कि हमारे विलीन होने से हमको कोई फायदा नहीं हुआ। हमने उनको तरह तरह की बातें कहीं थीं कि विलीन होने से तुमको यह लाभ होंगे और वह लाभ होंगे, लेकिन विलीन होने पर अभी तक उनके सामने कोई उनके विकास का प्रोग्राम सामने नहीं आया है। वहाँ पर लोग सोचते थे कि विलीन होने पर उनको बहुत से फायदे होंगे और उनकी तरक्की होगी। वहाँ जो चांदी की खान है उसके बारे में या जो तांबे व लैड (lead) की खानें हैं उनके बारे में कोई बिल भवन के सामने आयेगा। लेकिन वह क्या देखते हैं कि आपके इनकम टैक्स आफिसर चले आ रहे हैं और पूछ रहे हैं कि बतलाइये आपकी पिछले साल क्या आमदनी थी, आपके एक्साइज इन्स्पेक्टर घरों में चले जा रहे हैं और लोगों के पास जो दस, बीस सेर तम्बाकू अपने इस्तमाल के लिये है उसके लिये कहते हैं कि इस पर हम एक्साइज ड्यूटी लगायेंगे। तो इस तरह से उनको परेशानियाँ हो रही हैं। मैं यह नहीं कहता कि आप वहाँ पर सेण्ट्रल टैक्सेज न लगायें। यह तो लगाने चाहिये: मगर मैं चाहता हूँ कि वह टैक्स आहिस्ता लगाये जायें। जो आपके इनकम टैक्स आफिसर और एक्साइज इन्स्पेक्टर जायें उनको इस तरह काम करना चाहिये कि वहाँ लोगों में बिलबलाहट पैदा न हो। और वहाँ के लोग यह न सोचने लगे कि हम तो यह सोचते थे कि हमारा विकास होगा और हम लोगों के लिये हमारी गवर्नमेंट सब कुछ करेगी, लेकिन इसके बजाय हम देखते हैं कि हमारे ऊपर टैक्सेज लगना शुरू हो गये हैं।

इस लिये सिलेक्ट कमेटी के मम्बरों से मेरी यही प्रार्थना है कि वह इस बिल पर आर्थिक दृष्टि से और राजनीतिक दृष्टि से भी विचार करें। हमारे फाइनेंस मिनिस्टर साहब इसके लिये बधाई के पात्र हैं कि उन्होंने वहाँ के लिये कुछ कन्सेशन (concession) रखे हैं ऐसे लोगों के लिये जो कि कोई नया व्यवसाय करना चाहते हैं।

आप जानते हैं कि वहाँ पर के लोग क्या काम करते हैं। आप लोगों को कभी मंसूरी जाने का मौका मिला होगा तो वहाँ पर लोगों को आपने रिक्षा चलाते हुये देखा होगा। वहाँ बहुत गरीब लोग हैं, अपनी गाय, भैंस और बकरी चराकर व काश्तकारी से वह अपनी गुजर बसर करते हैं। अगर किसी के भाई ने मंसूरी में रिक्षा या

[ठाकुर कृष्ण सिंह]

कुली का काम करके, एक दो हजार रूपयां कमा लिये और उसने घर में छोटी दुकान से एक दो हजार कमा लिये तो क्या आप उनसे कह सकते हैं कि तीन हजार से ज्यादा आप लोगों की आमदनी हो गई है आप इनकम टैक्स दीजिये ? इस दृष्टिकोण से आप फिर विचार कीजिये । इस काम में आप जल्दबाजी से काम न लीजिये । पहली अप्रैल सन् १९४९ ई० से जो आप ये टैक्सेज वहां पर लागू करना चाहते हैं वह ठीक नहीं है, मैं समझता हूं कि उनको पहली अप्रैल सन् १९५१ से लागू करना चाहिये ।

यह कहा जाता है कि कुछ पूंजीपति, कुछ कंपिटलिस्ट और कुछ इण्डस्ट्रियलिस्ट टैक्सेज से बचने के लिये रियासतों के अन्दर चले गये हैं और वह इस तरह से ना-जायज फायदा उठा रहे हैं । अगर आप उन लोगों पर टैक्स लगाना चाहते हैं और उन से टैक्स वसूल करना चाहते हैं तो मेहरबानी करके इस तरह का कानून बनाइये जिससे वहां की गरीब जनता को परेशानी न उठानी पड़े । एक माननीय सदस्य ने यह कहा है कि इन रियासतों में बहुत लूटमार होती थी । लेकिन मैं उनको विश्वास दिलाता हूं कि इन रियासतों में करप्शन उतना नहीं था जितना कि हम और जगह पर पाते हैं । किसी रियासत के मर्ज (merge) हो जाने के बाद एक आदमी एक पेशकार के पास गया । पहले वह पेशकार दो रूपया घूस लेता था अब वह १० रूपया लेने लगा । उस आदमी ने पूछा कि पहले तो आप दो रूपया लिया करते थे और अब १० रूपया क्यों लेने लग गये तो उन्होंने यह जबाब दिया कि अब हमारी रियासत बड़े प्रान्त में मिला दी गई है । मैं देहरी गढ़वाल में शिक्षा मन्त्री, जंगलात और इण्डस्ट्री का मन्त्री रह चुका हूं । वहां पर मैं जानता हूं कि किस तरह से वह लोग यह आशा लगाये बैठे हैं कि उनकी रियासत बड़े प्रान्त में विलीन हो जाने पर उनकी हालत हर प्रकार से अच्छी हो जायगी । हमारे संयुक्त प्रान्त के प्रधान मन्त्री जी ने भी हमको हर प्रकार से विश्वास दिलाया कि हमारी रियासत की हर प्रकार से मदद की जायगी । जो विकास का काम प्रजा मण्डल शासन ने अपने हाथ में लिया था उनको पूरा करने के लिये भी उन्होंने हमको विश्वास दिलाया है । इस लिये मैं आशा करता हूं कि उस रियासत के विकास के लिये हर प्रकार का प्रयत्न किया जायेगा जिससे वहां के लोगों की हालत हर प्रकार से सुधर जाय ।

एक बात की और मैं और आपका ध्यान दिलाना चाहता हूं वह है वहां की राजनीतिक और आर्थिक स्थिति में इस बात को फाइनेन्स मिनिस्टर साहब के सामने रखना चाहता हूं । आपको मालूम है कि वहां लोग बहुत गरीब हैं । ऐसी दशा में वहां पर लोगों को भड़काया जा सकता है जिस तरह से आजकल कम्युनिस्ट कर रहे हैं । इस के साथ ही साथ इस रियासत की सीमा तिब्बत से मिलती है और वहां पर आगे स्थिति क्या होने वाली है वह कोई नहीं जानता । इस तरह की स्थिति न तो हमारे देश के लिये

ठीक है और न हमारी रियासत के लिये ठीक है । इसलिये मेरी प्रार्थना है कि इस राजनीतिक और आर्थिक दृष्टि को ख्याल करके वहां पर हर तरह से वहां की जनता की दशा सुधारने के उपाय करने चाहिये ।

दूसरी वैधानिक अड़चन जो पैदा हो गई है उसको मैं फाइनेन्स मिनिस्टर साहब के सामने रखना चाहता हूं । पहली अगस्त से पहले जो आमदनी होती थी वह इस बिल से इन्डियन यूनियन में आमदनी समझी जायेगी क्या यह वैधानिक दृष्टि से ठीक समझा जायेगा कि रियासत में जो आमदनी हुई थी उसको वहां की आमदनी समझ कर उस पर टैक्स लगा दिया जावे ? मैं जानता हूं कि कुछ साहूकार लोग और कुछ अमीर लोग टैक्स से बचने के लिये रियासतों में चले गये हैं लेकिन मैं समझता हूं कि सब से बड़ा प्रश्न तो वहां के लोगों का है । जैसा कि मैंने आपसे कहा कि वहां के लोग लकड़ी, छोटी दुकानदारी, रिक्षा और कुली का काम करते हैं और इससे वह अपना जीवन बसर करते हैं । मैं आपको यकीन दिलाना चाहता हूं कि वहां पर कोई बड़ा कंपिटलिस्ट नहीं है । मैं इस रियासत की हालत को अच्छी तरह से जानता हूं । वहां पर थोड़े बहुत मोटर चलाने वाले और छोटे कारोबार करने वाले हैं । ऐसी हालत में वहां पर जिस तारीख से वह रियासत संयुक्त प्रान्त में पूरी तरह से विलीन की गई है तब से जो आमदनी हुई हो उसी पर टैक्स लगा सकते हैं । मैंने अभी हाल ही में स्टेट्समैन पत्र में पढ़ा था कि पहली दिसम्बर सन् १९४९ ई० से यह स्टेट बिल्कुल संयुक्त प्रान्त में मर्ज (merge) हो गई है । इसका मतलब यह हुआ कि वहां पर जो टैक्सेज के कानून हैं वह सब पहली दिसम्बर, १९४९ को खत्म हो गये हैं । और केन्द्रीय व प्रान्तीय कानूनों के मुताबिक वहां पर टैक्सेज पहली दिसम्बर, १९४९ से लागू हो गये हैं । वहां के लोगों की कमर पहले ही करों से टूट चुकी है । वह अपनी आर्थिक हालत को अभी तक नहीं सुधार सके हैं अगर उन पर नये टैक्स फौरन सख्ती से लगा दिये जायेंगे तो वह उनके लिये हानिकारक होगा ।

मेरी फाइनेन्स मिनिस्टर और सिलेक्ट कमेटी के मेम्बरों से यह प्रार्थना है कि पहली अगस्त सन् १९४९ ई० से पहली दिसम्बर सन् १९४९ ई० तक का जो समय है वह उसको टैक्स लगाने समय एक्सक्लूड (exclude) कर दें । मुझे आशा है कि वहां की जनता को हर प्रकार से सहायता मिलेगी । वहां की जनता विलीनीकरण के बाद सरकार से बहुत आशा रखती है कि वहां पर हर प्रकार के विकास में सहायता चाहती है । अगर वहां पर नया टैक्स फौरन सख्ती के साथ लगाया गया तो वहां की जनता को परेशानी होगी । इतना कहने के बाद मैं अपना भाषण समाप्त करता हूं ।

(English translation of the above speech).

Thakur Krishna Singh (United Provinces States): Sir, yesterday I was saying in regard to this Bill that we should consider it from the political, constitutional and economic standpoints. For the sake of example I cited before this House the case of Tehri Garhwal State which the U.P. Government took over as an extra territory since August, 1949. In the six other merged States, however, the conditions are still worse. I am their representative as well.

In Tehri Garhwal, as I described yesterday, taxes of various kinds were levied before August, 1949, when the U.P. Government took over its administration. I want to restate today that there were profession tax, customs duty, octroi duty etc. When, however, our Constituent Assembly was considering the levying of income-tax there the contention was raised that the income-tax should not be levied so long as all those other taxes were there. The officers there also raised the question that their salaries were lower than those of officers in the U.P. In view of this question having been raised income-tax was not made leviable there.

I want to describe the conditions obtaining in the merged States. Tehri State is situated in the north of the United Provinces. On one side of it is Tibet and on the other lie the small Simla Hill States which have merged in the Himachal Pradesh. On the third side is situated Dehra Dun District while on the fourth side lies the District of Garhwal. It has a population of five lakhs. Let me describe the living conditions of these five lakhs of people and the occupations they pursue. You should of course have heard a good deal about their heroism. The Garhwali soldiers have been praised for the part played by them in great battles. Thousands of Garhwali soldiers laid down their lives fighting in the Indian National Army. At present that territory is full of soldiers belonging to the Indian National Army but they find no place in the Army here. You must also have heard how at Peshawar our Garhwali regiment refused to carry out firing orders. The Garhwalis also played their part in the fight for independence. Sumanji sacrificed his life in the fight for freedom. You would have heard about Nagendra Saklani and Molu Singh who came to be killed by firing. Despite their bravery, however, when these soldiers come back home the sight that meets their eyes is one of poverty, they see their children going naked, they find their places filthy and are also faced with all such difficulties as could befall man.

Until the time of its merger this State had various kinds of taxes and various such laws as caused hardships to the people. If now we make this Bill applicable with effect from the first April, 1949, as intended thereby, I think that, in view of the economic conditions prevailing there, the people there would come to entertain the notion that they have not gained anything by the merger. We had represented to them how various kinds of benefits would accrue to them in the wake of merger, but, after the merger, no programme for their amelioration has yet come up before them. The people there thought that the merger would bring them lots of benefits and lead to their progress. They looked forward to the introduction in this House of some Bill pertaining to the silver mine or the copper and lead mines that are there. On the other hand, they find your Income-tax Officers coming along and saying, "Tell us what was your income during the previous year?" Similarly, your Excise Inspectors are getting into people's houses and claiming to charge excise duty on the ten or twenty seers of tobacco which a man has kept for his personal use. Harassment is thus being caused to them. I do not say that you should not levy the central taxes on them, for these should be levied, but I do wish this levying were done gradually. Your Income-tax Officers and Excise Inspectors who go there should go about their business in such a way that there may be no outcry from the people. The people there may not start saying

that whereas they thought they were going to make progress and that their Government was going to do everything for them what they find, on the other hand, is that taxes have started being levied on them.

Hence, I would request the members of the Select Committee to consider it not only from the economic but also from the political point of view. Our Finance Minister deserves to be congratulated inasmuch as he has proposed some concessions for such people there as would like to start some new industry.

You know what occupations are followed by the people there. If you have ever been to Mussoorie you would have seen men drawing rickshaws. The people there are very poor. They make their living by grazing cows, buffaloes and goats and by carrying on cultivation. If a man's brother earns one or two thousand rupees by rickshaw-pulling or working as a coolie and he himself makes one or two thousand rupees out of a small shop at home would you say to them, "You people have come to have an income exceeding three thousand rupees; you should pay income-tax". You should reconsider the matter from this point of view. You should not act hastily. The proposal to make this taxation applicable there with effect from the first April, 1949, is not proper. I think it should be made applicable with effect from the first April, 1951.

It is alleged that some wealthy people, some capitalists and some industrialists have moved into the States with a view to evade the taxes and are thereby deriving unlawful gain. If you intend levying the tax on them and making recoveries from them you should so frame the law that the poor people may not have to suffer harassment. One hon. Member has stated that a lot of fleecing was done in these States. Let me, however, assure him that there was not so much corruption in these States as we find in other places. After the merger of a certain State a man went to a *Peshkar* (Reader to a judicial or revenue officer). The *Peshkar* who formerly used to accept two rupees by way of a tip had now started taking ten rupees. The man said to him, "Formerly you used to accept two rupees; why have you started charging ten rupees now?" He replied, "Now our State has been merged with a big Province". I have been Minister of Education as also of Forests and Industries in Tehri Garhwal. I know how people there are nursing the hope that with the merger of their State in a big Province their condition would improve in every respect. The Premier of the United Provinces also assured us in every way that our State would be helped by all means. He has also held out to us an assurance for the completion of such development work as had been taken in hand by the Praja Mandal Administration. Hence, I hope that every kind of effort will be made for the development of this State so that the conditions of its inhabitants might improve in every way.

I wish to draw your attention to one thing more and that is the political and economic condition of that place. I wish to put this before the Finance Minister. You know the people there are very poor. In such circumstances the people there can be incited in the way the Communists are doing these days. Besides, this State has a common border with Tibet and nobody knows what situation might develop there tomorrow. Such a state of affairs is not conducive to the good either of our country or of our State. Hence I submit that considering the political and economic points of view we should take all sorts of measures to improve the lot of the people there.

Secondly, a constitutional difficulty has arisen which I wish to place before the Finance Minister. Income which accrued prior to the first August will, according to this Bill, be deemed as having accrued within the Indian Union. Will it be deemed proper, from the constitutional standpoint, that such income as had accrued within the State should be regarded as income earned here and the tax levied thereon? I know that some *Sahukars*

(Thakur Krishna Singh)

and some rich people have moved into the States with a view to evade tax but I feel that the main question concerns the local people. As I have stated the people there do wood-cutting, petty shop-keeping, rickshaw-pulling and the coolie's job and thereby make their living. I want to assure you that there is no big capitalist there. I am fully conversant with the conditions obtaining in this State. There are a few people who ply motor vehicles or carry on small trades. In such a case tax can be levied only on such income as has accrued since the date on which that State came to be merged fully with the United Provinces. Just recently I read in the 'Statesman' that this State had come to be merged completely with the United Provinces with effect from the first December, 1949. This would mean that all taxation laws already in force there ceased to operate on the first December, 1949, and that taxes in accordance with the Central and Provincial laws have become leviable there with effect from the first December, 1949. The people there have already had their back broken by the burden of taxes. They have not yet been able to improve their economic condition. If new taxes are immediately imposed on them with severity this would be hard to them.

I request the Finance Minister and the Members of the Select Committee that they should exclude from the assessment of tax the period from first August, 1949, to the first December, 1949. I hope the people of that State will be given every kind of help. The people there have set high hopes on the Government consequent upon the merger. They want to be helped to develop in every way. If the new tax is imposed on them immediately, with strictness, the people there would feel troubled. With this I close.

Shri Kishorimohan Tripathi (C. P. and Berar States): Sir, generally I welcome these proposals which extend to the merged States the very important taxation Acts, among which are the Indian Income-tax Act, the Business Profits Tax Act and the Taxation on Income (Investigation Commission) Act, 1947. These merged States cover a very large area and contain quite a large population. Most of these States have merged into the Provinces of C. P. and Berar, Orissa, Madras, Bombay and the United Provinces. The main objective in bringing over this political change by a system of merger was to establish unity in the country and also to see that the people in these parts achieve the same amount of progress and prosperity in due course as people in the rest of India. The latter is the ultimate objective, but like the rest of India these merged States are also passing through a period of transition, and a period of transition is always a period of difficulties and hardships. The people in these States are of course therefore, experiencing today very great hardships. The highly centralised system of administration in these States has given place to a democratic administration, of course as we find it in India today. The result has been that the advantages of the highly centralised administration which the people in those States were getting have been lost to them, and simultaneously with that no advantage, which they were expecting to get from the changed system of administration, especially in the economic field has accrued to them. The burden of taxation, with the imposition of certain of the provincial taxes on the population has increased. Any proposal for further taxation is therefore looked at with alarm by the people of those States as was rightly pointed out by Thakur Krishna Singh.

I know from experience that in most of these States there are certain industries which need development. New enterprises are being undertaken and there are businessmen who have during the last so many years amassed huge profits and yet paid no taxes on those profits. Among some of the C. P. and Berar States, if Taxation on Income (Investigation Commission) Act is administered

the Government will come across quite a large number of cases where income-tax has been evaded or where the Income-tax Officers have under-assessed the income. I hope the Government will take notice of my hint. The Business Profits Tax also, if applied to these States, will bring into the coffers of the Government quite a large revenue. In some of the States which I represent, (the C. P. and Berar States), business and trade are almost on a par with those in the province into which they have merged. But the question arises as to what will be done with the revenue thus collected by the application of these taxation measures? Will these earnings be used separately for the betterment of the people in those States or whether the earnings from the Business Profits Tax and Income-Tax will be allotted to the provinces into which the States have merged? I for one will request the hon. the Finance Minister to see that all revenues accruing from the imposition of these taxation measures to the Centre are allotted to the respective provinces into which these States have merged with instructions to see that these revenues are used for the betterment of the people of the States concerned.

There is a certain amount of misapprehension as to the scope of these proposals. As far as I can see as a layman, these proposals do not in any way touch the common man nor are they going to increase his burden of taxation. These are proposals of direct taxation and the burden will necessarily fall on a class of people who have amassed huge profits from the common man. We should therefore be very thankful to Government for the extension of these taxation measures to our States. But much will depend on how these proposals are administered.

After the merger, a feeling is growing among the people in the States that the general tone of administration is deteriorating. It is rightly said that corruption has increased and that the general behaviour of the executive that has come from the Provinces is rather very offending to the people who are looked upon as conquered people. In the circumstances, if these taxation proposals reveal these weaknesses in their administration, they will not be welcomed by the people. I hope the Central and Provincial Governments will see that the sense that is growing in the people of the States that the change-over has not been very healthy will not be allowed to grow and that these proposals are administered in such a way that partiality, nepotism and favouritism which today have given a bad name to our administration will not come up. With these words I commend the proposals to the House.

ठाकुर लाल सिंह : श्रीमान् अध्यक्ष महोदय, मैं भोपाल रियासत से आया हुआ हूँ।

जिसका एडमिनिस्ट्रेशन (administration) अभी हाल ही में सेंटर ने ले लिया है। यहाँ भी उसी प्रकार की स्थिति है जैसी कि हमारे टिहरी और गढ़वाल के आनरेबल मेंबर ने अभी हाउस के सामने उपस्थित की है। भोपाल एक राज्य था और यहाँ की जनता ने अभी गत वर्ष काफी लड़ाई लड़कर और प्रयत्न करके उसको मर्ज करने में बहुत बड़ा हिस्सा लिया है। लेकिन मैं अभी ही देखा कि मेरे यहाँ आने के कुछ दिन पहले ही वहाँ इनकमटैक्स (Incometax) के विषय में बहुत वावेलों मच गया और वह इस किस्म का था। रियासत पहली जून को मर्ज हुई लेकिन पहली अप्रैल से यानी उसके कुछ महीने पहले से ही उससे एक और टैक्स मांगा जाने लगा जो उन्होंने वहाँ पहले नहीं दिया था। रियासत के लोगों ने यह भी समझा था कि यहाँ हम कस्टम्स टैक्स (Customs tax) देते हैं, एक्साइज (excise) देते हैं और कई तरह की परेशानियों में मुब्तला हैं और मर्ज (merge) होने के बाद हमारी स्थिति ज्यादा

[ठाकुर लाल सिंह]

अच्छी हो जायगी और हमको सेंटर से काफी रुपया मिलेगा जिससे कि रियासत डेवलप (develop) की जायगी। लेकिन रुपया तो कुछ मिला नहीं और उसके बजाय इस किस्म के टैक्सों का सवाल पहले ही आ गया। इससे उनको ज्यादा मुसीबत इस लिये हो गयी कि पहले इस किस्म के टैक्स का फैसला भोपाल में ही हो जाता था लेकिन अब उनको इसके लिये नागपुर जाना होगा।

यह भी एक उनके लिये काफी परेशानी की बात होती है। तो मैं यह प्रार्थना करूंगा कि दिक्कतें वही हैं जो अभी बतलाई गई हैं। लेकिन इसमें दो बातें जरूर बढ़ा दी जायं। एक तो यह कि टैक्स पहली अप्रैल से न लगा कर, अगर किसी किस्म का टैक्स लगाया भी जाता है तो पहली जनवरी सन् १९५० ई० से शुरू किया जाय, दूसरे उस कमेटी में जो बनाई गई है या तो मर्ज्डस्टेट्स (merged States) के कुछ आदमी बढ़ा दिये जायं या कम से कम उनसे काफी मदद ले लिया जाय और उनकी राय के बगैर कोई बात न की जाय। इतना ही कह कर मैं समाप्त करता हूँ।

(English translation of the above speech).

Thakur Lal Singh (Bhopal State): Sir, I come from Bhopal State. The responsibility for administration of that State has been taken over by the Centre recently. The conditions obtaining there are almost the same which have been pictured before the House by the hon. Member hailing from Tehri Garhwal. Bhopal was till recently a state whose masses, by their hard struggle and great efforts, have played a notable part towards its merger. Despite this I noted a strong resentment prevailing there against the levy of income-tax. It happened only a few days before I came here and was of the nature as follows. The merger of the State took place on first of June, but a new tax which was not paid by the people before was levied with a retrospective effect from 1st April, i.e. a few months before the merger itself. They had thought that with merger many of their troubles such as the payment of the customs tax, excise duty and many other harassments of the type will come to an end; that their conditions will improve and enough funds will be made available by the Centre towards development of the state. But not only that no funds were forthcoming, question of levying of such taxes was raised instead. The people had to face greater hardship inasmuch as they had to go to Nagpur now whereas, prior to this time, decisions regarding such issues could be taken in Bhopal. This is, no doubt, very much inconvenient for them. I will, therefore, submit that difficulties experienced are those which I have just mentioned. One or two additions, however, are quite necessary. The first is that the taxes, if at all to be levied, should come into force with effect from 1st January, 1950 instead of having a retrospective effect from 1st April. Secondly the Committee formed to this end should have more representatives from the merged states or should consult them more adequately and not to take any decision without their consent. I conclude with this much.

Shri Sarangdhar Das (Orissa States): Sir, I am very happy to support this Bill. I am rather surprised that it has taken so long for the Government of India to bring these laws into operation in the merged States which were merged under the Extra-Provincial Jurisdiction Act in the beginning of January

1948. So two years have passed by and in the meantime all kinds of laws have been operating there. However, I am glad that Government have realised the necessity of collecting income-tax in those States. There are several other acts which are now being applied to the States. Among them, offhand, I have picked out a few that are very useful and in the absence of which in the States the common mass of people, workers, labourers, miners, and others are being exploited and I hope that with the application of these Acts that exploitation will now cease. For instance, the Indian Mines Act, the Workmen's Compensation Act, the Factories Act, the Trade Unions Act, etc. These were not applicable there. The Rajas were ruling those States at that time—I am speaking particularly of Orissa and C. P. States—and although the Political Department used to send them suggestions to apply these Acts, they used to keep them in their Books but never apply them. Thereby the Rajas helped the industrialists and capitalists to exploit the people there and not only that, although this is a matter of the past, still it will be interesting for the hon. Members and for you, Sir, to know that by keeping these laws in abeyance, the Rajas of these States were getting some private money from these exploiters. However, that time is gone, and we are now going to have these Acts applied there. Among the social laws, the Hindu Inheritance Laws and the Child Marriage Restraint Act, these were also being evaded in the States. Not only that, up till two years ago, people from the provinces used to go and have their children married in the States in order to evade the Child Marriage Restraint Act. It will not be possible now. So, from every point of view, the application of these Acts in the merged States is very appropriate, but there is one thing I do not understand, and I hope the Select Committee will take this into consideration and that is the matter of monopolies. I know that in the provinces there are no monopolies in hides and skins, forest produce, tamarind, etc. These items of produce are not sold, not auctioned to the highest bidder as monopolies, meaning thereby that the primary producers can sell these commodities anywhere and to anyone they choose. But in these States all kinds of monopolies existed and the producer was compelled to sell only to the monopolist. Consequently, taking advantage of the situation, the monopolists were dictating the price and wherever it exists now, they give much less price than the primary producers can obtain across the border in a district of the provinces. Particularly in Orissa and C.P., the people are very much disturbed now over *kendu* leaves out of which beedies are made. These leaves are obtained not so much from the forests, which belong to the Government.....

Mr. Speaker: I am afraid that line of argument will be beyond the scope of the Bill. That question is not included in the Bill at all.

Shri Sarangdhar Das: I am just pointing out that, whether it is covered by any of these Acts or not, if monopolies do not exist in the provinces, then it should be repealed in the States also. Otherwise, it seems to me that there will be still some laws which are not applicable to the States.

Mr. Speaker: I do not mean to suggest that the argument is not sound. My only point is that it will be beyond scope of the Bill. This Bill is restricted to certain financial matters, taxes on income and such other taxes, and therefore the argument of the hon. Member will not be relevant to the present discussion.

Shri Sarangdhar Das: I spoke of these because of the Schedule of Acts, some hundred of them, going with this Bill.

Mr. Speaker: What Schedule is he referring to? I do not find any schedule in this Bill. That is a different Bill altogether. I invite the hon. Member's attention to this Bill. He is perhaps speaking with reference to some other Bill. Has he any remarks to offer with reference to this Bill?

Shri Sarangdhar Das: With regard to the application of the Income-Tax laws, I support the Bill and I offer the same remark that it should have been applied long ago as soon as the States were merged, and any tax evasion that the capitalists or any others may be found guilty of inside the province by their taking shelter in the States, should now be located and due assessment should be made on their incomes whether they have been made during the last one or two years or prior to that during the war years.

As far as spending of the amounts collected is concerned, the previous speaker stood for speaking them in these particular areas. I am not one to advocate such narrow localism. But at the same time, I would request the Government of India to bear this in mind, that these State areas are certainly much more backward than the old provincial areas and whenever any additional taxes are collected from those areas it should be remembered that more money than ordinarily spent *per capita* in the provinces should be allocated to these State areas. This is my only request: otherwise I would not say that the money should be particularly spent in that area alone.

श्री लक्ष्मी नारायण साहू : माननीय वाचस्पति जी, अर्थ सचिव जी ने जो विधि हम लोगों के सामने पेश की है मैं उसका स्वागत करता हूँ। इसका स्वागत करते हुए मैं दो एक बात कहना चाहता हूँ। यह विधि मर्ज्ड (merged) या सम्मिलित हुई स्टेट्स में प्रयोग करने के लिये हम क्यों चाहते हैं? हम यह इस लिये चाहते हैं कि कुछ ज्यादा पैसा मिल जाय और उस पैसे से हम साधारण लोगों का ज्यादा मंगल कर सकें।

एक बात जो सब से पहले मैं कहना चाहता हूँ वह यह है कि जो स्टेट्स सम्मिलित हुई हैं मैं विलीन नहीं कहूँगा क्योंकि विलीन का अर्थ मरने का होता है, वहाँ के साधारण आदमियों को बहुत दुःख पहुँच गया है; इसीलिये जो कुछ आईन हम अभी बनायेंगे या रियासतों में लागू करेंगे, उसमें हम लोगों यह देख लेना चाहिये कि इससे वहाँ की प्रजा को जीवन धारण करने का अच्छा मौका मिलेगा या नहीं। मैं कहूँगा कि इस आईन से जो कुछ पैसा हम को मिले वह सब वहीं उन रियासतों में ही खर्च होना चाहिये और उसके सिवा केन्द्रीय सरकार को और पैसा वहाँ लगाना चाहिये। जब तक यह नहीं होगा तब तक वहाँ के आदमियों के लिये बहुत खराब होगा।

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

दूसरी बात मैं यह कहना चाहता हूँ कि इसमें जो एग्जेम्पशन (exemption) दिया गया है नया बिजनेस (business) करने वालों को तो यह वहाँ के ही लोगों को दिया जाय और बाहर के बिजनेस मैन (business men) जो वहाँ जाकर नया बिजनेस करना चाहें उनको यह सुविधा न दी जाय, क्योंकि अगर बाहर वालों को यह सुविधा दी जायगी तो रियासतों के आदमी कभी उठ नहीं सकेंगे।

वह तो बड़े बड़े आदमियों के नौकर बनकर रहेंगे और उनकी अवस्था कभी अच्छी नहीं होगी।

मैं एक बात और कहना चाहता हूँ। रियासतों में राजाओं के अमल से तरह तरह के टैक्स (taxes) लगे हुए हैं, कोई ६०, ७० या ८० तरह के टैक्स हैं। अब अगर उन पर दो चार और टैक्स लगा दिए जायेंगे तो लोग कहेंगे कि देखो गवर्नमेण्ट आफ इण्डिया ने हम लोगों पर और भी टैक्स लगा दिए हैं और वहाँ आन्दोलन शुरू हो जायगा कि गवर्नमेण्ट हम को मारे देती है। इसीलिये मैं अर्थ सचिव को अभी के लिए नहीं पर आगे के लिए कहूँगा कि वह सोचें कि जितने टैक्स कम हो सके उतना वहाँ के लोगों के लिए अच्छा होगा, क्योंकि ऐसा करने से वहाँ के आदमियों को मालूम हो जायगा कि यह गवर्नमेण्ट आफ इण्डिया जो हमारे देश में स्वतंत्र होने के बाद चली है वह हमारे ऊपर इतना टैक्स नहीं लगाती है जितना कि राजा लोग लगाते थे। राजा लोग ऐसे टैक्स लगाते थे जैसे मैरिज (marriage) टैक्स और दूसरे तरह तरह के टैक्स लगाते थे।

मैं इसीलिए चाहता हूँ कि हम लोगों को यह जरूर याद रखना चाहिए कि रियासतों के आदमियों की हालत बहुत खराब है, इसलिए नए टैक्सों से जो पैसा आवे उसको वहाँ खर्च करना चाहिए। और यह भी देखना चाहिए कि इतनी स्टेट्स तो मर्ज कर दी गई हैं लेकिन कच्छ एक छोटी सी रियासत है उसको क्यों नहीं मर्ज (merge) किया गया। यह मेरी समझ में नहीं आता है। कहते हैं कि उसके मर्ज होने से वहाँ के आदमियों की हालत बहुत खराब हो जायगी क्योंकि वहाँ की इकानामिक कन्डीशन (economic condition) अच्छी नहीं है। जितनी स्टेट्स मर्ज हुई हैं उन सबकी हालत खराब हो गई, तो फिर उनको क्यों मर्ज किया गया? इसलिए कच्छ रियासत को भी मर्ज करके जितना पैसा मिल सके लेना चाहिए। और जो बिजनेस मैन रियासत में पैदा हुआ होगा उसी को कन्सेशन (concession) दिया जाना चाहिए। बाहर के बिजनेस मैन चाहे वह नया काम ही करें, उनको वह सुविधा नहीं देनी चाहिए।

(English translation of the above speech).

Shri Lakshminarayan Sahu (Orissa: General): Sir, I welcome the motion moved by the hon. Minister of Finance. Welcoming this motion I wish to say a few things. Why do we want to extend this Bill to the merged or integrated states? We want to do so simply for the reason that we may get some more money whereby we may be able to accord more benefits to the common people.

The first thing that I wish to say at the very outset is that the people of the states that have been integrated, I do not like to use the word merged because merger means extinction, have been highly inconvenienced. Therefore, before passing the laws that we wish to enact and impose upon states we should think

[Shri Lakshminarayan Sahu]

over whether by such enactments the people of these states will get better opportunities of subsisting life or not. I say that the additional money that we may get from this enactment should entirely be spent in those very states and besides this money the Central Government should spend even more. Unless this is done the conditions will remain bad for the people there.

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

The second thing that I wish to say is that the exemption, which has been promised therein to the people establishing new businesses should be given to the people of those places only and the outsiders who wish to establish their business there should not be given this exemption. Because if the outsiders also would be given this exemption then the states people will never be able to stand on their feet. They will ever remain salves of the monied people and their condition would never get better.

I wish to say one thing more. Since the sovereignty of the Rajas in the States a number of taxes have been in force; there are some 60 to 70 different kinds of taxes. If a few more taxes are imposed on them then the states' people will clamour that the Government of India have imposed upon them more taxes and then an agitation will be launched that the Government is crushing them. Therefore I warn the hon. Minister of Finance, not for the present but for the future, that the lesser the number of taxes the better it would be for the people there. Because by doing so the people there will come to know that this Government of India, that has assumed power after the country became independent, do not burden them with so many taxes as was done by the ex-Rajas. The ex-Rajas used to realize such taxes like marriage tax etc.

Therefore I wish that we must remember that the condition of states people is very bad; so the additional money realized from these taxes should entirely be spent there. Besides this, it should also be taken into consideration that when so many states have been merged then why the small state of Cutch has not been merged? I cannot understand this anomaly. It is said that by its merger the condition of the people there will deteriorate still more because the economic condition of the state is not sound. The economic condition of all the merged states has deteriorated then why these states were at all merged? Therefore merging the Cutch State we should realize as much money as possible; and concessions should be given only to those businessmen who are bona fide residents of the said state. The businessmen not belonging to the state, if they start new businesses, should not be granted those concessions.

Shri Prabhu Dayal Himatsingka (West Bengal: General): Sir, I beg to support the motion of the hon. Finance Minister. I would have liked if he had taken courage and introduced a Bill dealing with certain other matters of income-tax law. As you know, in recent years, the working of this legislation has brought about an amount of demoralization which perhaps has not been done by any other single piece of legislation relating to any other department of the Government or any other single act.

So far as the Bill introduced is concerned I welcome the provisions in clause 10 (1) (i) granting certain concessions to new industries that might be set up. But clause 10 (2) which follows is likely to introduce complications, unless the provisions are made clear clause 10 (2) provides that where an existing business is transferred the Income-tax Officer, with the previous approval of the Inspecting Assistant Commissioner, may fix the price that will be taken into account in allowing depreciation. When a party sells such an existing concern the

vendor will be liable to tax on the difference between the written down value and the price that he obtains and if he be liable to tax on the amount of the difference I do not understand the logic of the purchaser not being given the benefit of that amount. If the purchaser is going to be given the benefit of a reduced amount, as may be fixed by the income-tax officer, in such a case the vendor also should be given that benefit. You cannot be allowed to charge the seller the income-tax on the amount of the difference and yet not allow the benefit thereof to the purchaser who has paid a higher price on account of the appreciated value in the present circumstances. Therefore that clause ought to be made clear so that the complications that are likely to arise may be avoided.

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

Then, Sir, clause 12 promises certain concessions to newly established industrial undertakings,—to businesses which will come into production in the course of three years. This clause also ought to be made clearer. As it stands, the benefit may not be available to an existing undertaking which may double its capacity. If an existing undertaking doubles its capacity by ordering new plant, etc., it should be made clear that such an undertaking also will be entitled to the benefit of this provision.

Then there is clause 32 which gives certain exemptions and immunities to persons who give certain information. I hope that this clause may not encourage disloyalty amongst the employees and may not give cause or occasion to enable them to blackmail their employers. A number of cases, I am sure, must have come to the notice of the hon. the Finance Minister himself where employees who have been dismissed have tried to take advantage of certain information they might have and tried to use them for the purpose of blackmailing. I am sure that if encouragement is given to such kind of disloyalty the effect will be much worse than the benefit that may be available in certain cases. Therefore it should be so circumscribed that it may not be used for the purpose of blackmailing.

Having said so far regarding the provisions of some of the clauses, may I also draw the attention of the hon. Minister to the position as to how the Act is being applied in certain Provinces? The instructions that are given from time to time, or are supposed to be given from time to time, by the Central Board of Revenue have created, and always create, a number of complications for the Income-tax officers and, therefore, for the assesseees. On a previous occasion I mentioned the instance of demonetised government notes. I gave instances when in certain Provinces at any rate all the amounts of such notes which were encashed after a particular date have been taken into account as profit, irrespective of the fact as to whether or not there was a cash balance sufficient to cover the amount of the notes. I sent certain instances to the hon. the Finance Minister and I am sure the facts communicated to him must have been conclusive as to how the instructions are being misused. But his Department, to which naturally the hon. the Finance Minister sent the information communicated by me to him, have just tried to explain away their responsibility. It may be very well and very easy to explain these things, but the effect of such cases should be taken into consideration by the Department as to whether or not they are directly affecting the income, and the Income-tax that is consequently realised by the Department. It is very easy to realise certain amounts in excess of what should be done, but it has a very bad and demoralising effect on business and it does bring about a certain

[Shri Prabhu Dayal Himatsingka]

amount of discontent and uncertainty as to how the Department is going to act. Therefore it is up to the Department to see that cases which are brought to their notice are not explained away even when they know that there is sufficient ground for taking action. Similarly, at the present moment, what is happening is that the Income-tax officers only take up the big cases, that is, cases where the income-tax assessment is above, say, Rs. 25,000 or the income is over a certain amount, because they are expected to dispose of a number of cases of certain amounts.

The Honourable Dr. John Matthai (Minister of Finance): May I suggest that these matters are not strictly relevant to the provisions of the Bill? They cover the general administration.

Shri Prabhu Dayal Himatsingka: I admit that they do not relate to the clauses of the Bill before the House, but I will not have an opportunity of drawing the attention of the hon. Minister as to how the Income-tax Act is being applied, how it is causing havoc and how instead of helping the Government to realise more revenue they are acting.....

Mr. Deputy-Speaker: How is general discussion on the Income-tax Act or the Investigation Commission relevant here except insofar as what the hon. Member may speak with reference to the provisions of the Bill so as to enable the Select Committee to come to any particular conclusions? I think the hon. Member need not digress upon all those points. If he has any more, he may refer to particular provisions of importance instead of going into detail or any general principles relating to this matter.

Shri Prabhu Dayal Himatsingka: Sir, I bow to your ruling. But what I was saying was this. Take clause 10(2). Here you make a provision that certain concessions will be given. But if the Department does not act up to the provisions of the law and if they try to act on certain private instructions given by the Central Board of Revenue, can I not bring that to the notice of the hon. the Finance Minister that even when you make certain provisions your Department do not act up to them and they just try to twist them and act in a manner which they are not entitled to?

Mr. Deputy-Speaker: It may not be strictly relevant for this reason that if the hon. Member brings to the hon. Minister's notice any particular cases relating to general administration certainly the hon. Minister will take action.

Shri Prabhu Dayal Himatsingka: Very well, Sir. Then as regards the clauses I have given my suggestions as to how they should be improved and how certain of the clauses should be made clear so that any doubt that may arise on account of the present draft may be removed.

The Honourable Dr. John Matthai: Mr. Deputy-Speaker, as the matter is going to be examined thoroughly by a very representative Select Committee of the House I do not think it is necessary for me to deal in detail with the various matters which have been raised. What I propose to do in the brief time that I may take over this is to deal only with some of the more important matters. My hon. friend Mr. Biswanath Das yesterday asked me why this law was not applied earlier to the States, particularly in his part of the country. The real reason is that although those States were taken over for Central administration through the agency of the Provinces they were not really 'merged' in the technical sense. They did not become merged States until quite recently.

With regard to the general question of allocation of Income-tax, this is not a matter on which I could possibly express any opinion at this stage because.

as the House knows, the whole question of the distribution of the divisible portion of income-tax is now under examination by Mr. Chintaman Deshmukh who has been specially appointed for the purpose of arbitrating on that issue, and till his award is published it is not possible for me to make any statement on the particular issue; and even that would be a provisional arrangement pending a final decision by the Finance Commission to be set up under the new Constitution.

There has been a good deal of reference to the manner in which the concessions referred to in the Bill should be administered. The Bill gives Government powers in regard to merged States to grant modifications in cases of special hardship. On the one hand the suggestion has been made that it should be applied fairly strictly, on the other hand it has been suggested that it should be applied with a certain amount of liberality. What Government proposes to do is to take a middle course in this matter.

I think Dr. Deshmukh yesterday raised the question whether any agreements made by the Princes with industrialists would be taken into consideration. That is one of the matters which would necessarily be taken into account and in the instructions that we have issued to Income-tax Officers under the order promulgated under this Ordinance we have already asked them to collect information regarding these special agreements so that they might be taken into account by Government in order to determine what concessions might reasonably be given.

The hon. Member from Tehri-Garhwal yesterday raised the question whether what I said in reply to my hon. friend Mr. Tyagi was consistent with the provision in the Bill which extends these Acts to merged States with effect from the 1st of April. As I said yesterday, it does not in the least vary the statement I made to Mr. Tyagi because our intention is that the Indian rate should apply only to income earned after the 1st of August. It is necessary for technical reasons to provide that the Acts concerned would be effective from the 1st of April because these Acts refer to assessment years. But what we propose to do in this matter is that a rebate would be given in respect of the income between the 1st of April and the 1st of August and therefore that income would be excluded from the assessment altogether. The hon. Member may rest assured that the position is quite safe from his point of view.

The rest of the suggestions made have been with reference to the concessions provided in the Bill for new industrial undertakings. These have been in force for a whole year and I personally feel there is no need for making any changes in regard to these provisions which, within the framework of these concessions, have on the whole worked reasonably well.

My hon. friend Mr. Himatsingka made various suggestions as to how the Income-tax Department should do its work. Most of the matters which he raised this morning are matters on which he has made representations to me and he knows these are matters into which I have been looking. He has said some hard things about the Income-tax Department. The Income-tax Department has an extremely thankless task. In view of the huge accumulation of arrears that we were faced with some time ago, it was necessary for me, really at the instance of the House to issue strict instructions to our officers to see that these large arrears were reduced as quickly as possible. Having issued these instructions to them and having got them to put more energy into their work, I cannot at this stage turn round and tell them, "You have been too energetic, you had better slow down now". If I did that, it would demoralise the whole Department. I shall see to it that while every pie that is due to Government is collected promptly, at the same time better relations would be cultivated between the Income-tax Department and the public.

Shri Kishorimohan Tripathi: What about allocation of the revenues?

The Honourable Dr. John Matthai: I think my hon. friend Mr. Tripathi is thinking of allocations in a different sense. I think what he wants is that whatever tax is collected in the merged States should be used for the benefit of those merged States. It raises an issue on which I am not in a position to say anything now.

Shri Mahavir Tyagi (U. P.: General): One point seems to have missed the attention of the hon. Minister. My friend Thakur Krishna Singh, ex-Minister of Tehri-Garhwal State, had raised a point that the idea was rejected by the State legislature there because those in the service of that State were being paid less than people in India because there was no income-tax. Now, with the income-tax levy they will be unduly burdened. Either their pay should be raised because till now their pay was assessed on a no-income-tax basis or...

The Honourable Dr. John Matthai: My hon. friend is aware that under the Bill the Central Government would have power to take special circumstances into account in order to see that suitable modifications are made. He cannot expect me to give a decision in regard to a specific case here.

Thakur Krishna Singh: There is another difficulty. The old taxes were in force from 1st of August 1949 to 1st of December, 1949. So, I think this is an idea to the House of the extent of unemployment that prevails with all the 1st of December 1949 and the old taxes were collected up to 1st December.

The Honourable Dr. John Matthai: That would be so.

Mr. Deputy-Speaker: The question is:

"That the Bill to extend certain laws relating to taxation on income to certain areas administered as parts of Governor's Provinces or as Chief Commissioners' Provinces and further to amend certain laws relating to taxation on income be referred to a Select Committee consisting of the Honourable Dr. B. R. Ambedkar, Shri M. Ananthasayanam Ayyangar, Prof. N. G. Ranga, Shri S. V. Krishnamoorthy Rao, Pandit Hirday Nath Kunzru, Prof. K. T. Shah, Shri R. K. Sidhva, Shri B. Das, Shri B. P. Jhunjhunwala, Shri V. Ramaiah, Shri B. N. Munavalli, Shri R. L. Malaviya, Shri G. S. Guha, Pandit Thakur Das Bhargava, Dr. Mono Mohon Das, Shri Deshbandhu Gupta, Shri Mahavir Tyagi, Shrimati G. Durgabai and the Mover, with instructions to report on or before the 16th December, 1949 and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.

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

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, be taken into consideration."

The Bill, as hon. Members are aware, is intended to enable Government to set up Seamen's Employment Offices at ports in India. It would interest the House to know that the seamen that are recruited at Indian ports constitute a very large proportion of the total sea-faring population of the world. In the case of the U.K. shipping, it is estimated that fully 25 per cent. of the seamen that operate the British shipping are recruited at Indian ports. The total number of seamen that are recruited at Indian ports has been variously estimated at between 55,000 and 60,000 but the total seamen available for recruitment at these ports have been estimated at between two and three lakhs. That gives an idea to the House of the extent of unemployment that prevails with all its attendant evils.

It has long been recognised that the fundamental problem of the Indian seamen or rather the seamen recruited at Indian ports is that of organisation of recruitment itself. The methods of recruitment that have prevailed have been in operation for the most part of a century without any material change. As the House is aware, the welfare of the seamen has been the subject matter of discussion now and again at International Labour Conferences. The earliest Conference of which I am aware was the one that was held at Geneva in the year 1920, where the question of the employment of seamen came up for direct consideration. The Geneva Conference adopted a Convention, called "The Placing of Seamen Convention, 1920", seeking to regularize and improve the different methods of recruitment that prevail in various parts of the world. I would give very brief extracts from two relevant Articles of that Convention.

Article 2 ran as follows:

"The business of finding employment for seamen shall not be carried on by any person, company or other agency as a commercial enterprise for pecuniary gain....."

I have not given the full Article 2. That is not necessary for my purpose. Let me add that the system that has been obtaining in India falls within the mischief of this particular Article.

Article 4 ran as follows:

"Each member which ratifies this Convention agrees that there shall be organised and maintained an efficient and adequate system of public employment offices for finding employment for seamen without charge. Such system may be organised and maintained either—

(1) by representative associations of shipowners and seamen jointly under the control of a Central Authority; or

(2) in the absence of such joint action, by the State itself."

This Convention came up for consideration at the hands of the Government of India in 1921 and the Government placed their recommendations before the two Houses of the Central Legislature, to the effect that the Convention should not be ratified by India. That Resolution was adopted by both the Houses of the then Legislature and therefore, the Convention was not ratified. In the Resolution that was placed before the Legislature by Government in that connection, it was added—although recommending that the Convention should not be ratified—that "an examination should be undertaken without delay of the methods of recruitment of seamen at different ports in India in order that it might be definitely ascertained whether abuses exist and whether those abuses are susceptible of remedy."

May I respectfully suggest that we might perhaps stop here, because I have to continue on a different point.

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

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

INDIAN MERCHANT SHIPPING (AMENDMENT) BILL—contd.

The Honourable Shri K. C. Neogy: Sir, before the House adjourned I had mentioned that in 1921 the Government of India while deciding not to ratify the Geneva Convention of 1920 had agreed to have an enquiry made into the system of recruitment of seamen and also the alleged prevalence of abuses in that connection. A Committee was appointed by the Government of India to undertake this enquiry under the Chairmanship of Mr. Clow who later became Sir Andrew Clow and was a Member of the Executive Council of the Government of India. That Committee criticised the prevalent system in somewhat scathing terms so much so that the Government of India in their resolution, which was published in the Gazette stated that "the Government of India decided to treat as confidential the first three paragraphs of the report which described the existing system and the abuses to which it is liable." In summarising the principal recommendations of the Committee that resolution observed as follows:

"The Committee are unanimously of the opinion that the system has led to grave abuses which no mere amendment of details would satisfactorily remove. They (the Committee) have come to the conclusion that it is imperative to introduce an entirely new system which does not involve the employment of intermediaries. It is clear that if brokers and ghat serangs are no longer to be employed, arrangements must be made to carry out the duties at present entrusted to them. The Committee point out that this can only be effected by the organisation of employment bureau."

Now, in a sense, it is this suggestion of an employment bureau that was made by the Clow Committee in 1922 that I am virtually seeking to incorporate in this Bill after a lapse of twenty-seven years. It appears that the Government of India did not take much serious notice of the recommendations of the Clow Committee and did not take any effective action for the purpose of removing the abuses complained of. Sir, I wanted to give a historical background of this proposal in order that the House may appreciate the issues that are involved in the present measure.

Now I should like to tell the House very briefly something about the exact system that prevails. The system was the same in the case of Bombay and Calcutta ports. These are the ports where the recruitment actually takes place, but the Calcutta system was modified in the year 1941. Now under the Bombay system what happens is that the choice of seamen is largely left in the hands of the shipping companies or their recruiting agencies. In Bombay the serang and the butler are first of all chosen on behalf of the shipping concern and it is left to the serang and butler who are called senior ratings to recruit the subordinate ratings of their own choice.

Very recently a responsible officer of the International Labour Office, Dr. Maud studied the system in India and in referring to the Bombay system, he has given a graphic description of the conditions under which actual recruitment takes place. Referring to one of his experiences, he said: "The Writer arrived outside the Bombay Shipping Office to find an excited vociferous mob engaged in a free fight in which the Police had to intervene after a few broken heads had been suffered." That is the Bombay system.

The Calcutta system, as I have already stated to the House, has been changed since 1941 and it now goes by the name of the 'Open Muster' system.

On this also Dr. Maud has an illuminating observation to make. He said: "the new method is known as the 'Open Muster' system" and then he observes: "it is certainly 'open' and it might be called 'muster' but it most definitely is not a 'system'". That is the Calcutta system. What happens in Calcutta is that on any particular occasion when the selection for recruitment has to be made, all those who are willing to be considered stand in the open, in different lines, and agents of the shipping concerns pass through those lines to look at the papers which these people hold in their hands indicating their records of service and they are then selected. Now here again what Dr. Maud said would be found to be interesting. He refers to a case where a selecting officer had written on his palm in indelible pencil the numbers of certain discharged certificates, the holders of which had paid a bribe in advance to ensure being picked. The trick was discovered and the officer narrowly escaped lynching. This is a characteristic of the Calcutta system.

Now in Calcutta we have, just as we have in Bombay, what is called a 'maritime board', the maritime board being representative of the interests of shipping as also of labour organizations. Government have no part to play in connection with this Maritime Board except in an advisory capacity, if our officer's advice is taken. Now in Calcutta this Maritime Board was organized at the instance of the Calcutta Liners' Conference, and at the request of the Conference, the Government agreed to co-operate in its working and this co-operation consists in merely tendering advice by the Shipping Officer and nothing more than that. The legitimate function of the Maritime Board is to settle the general terms of employment of seamen and not to be responsible for actual recruitment of individual seamen. Sir, it is, of course, possible where labour is efficiently organized to have the task of recruitment of seamen to be entrusted to such bi-partite organizations, organizations on which the representatives of the employers as also representatives of efficient labour organizations could find a place, and that is the system that is to be found in certain countries of the world, particularly in the United Kingdom and in the U.S.A. But there are other maritime countries like France, Italy, Netherlands, Norway and Sweden, where the system of employment Bureau under Government auspices has been introduced.

What we seek to do in this Bill is to authorize Government to establish Government organizations for the purpose of recruitment of seamen. It is not the intention of Government to exclude the possibility altogether of bi-partite arrangements to function. If Government are satisfied that in any instance, for instance either in Bombay or in Calcutta at any time it is possible to leave the responsibility of recruitment to these bi-partite organizations, Government might be content to watch the situation from a distance or with giving advice, apart from exercising some kind of general supervision and control.

What is essential at the present moment in the circumstances that prevail in the recruitment of seamen is to weed out the unsuitable. I have already indicated that a very large volume of unemployment prevails in this profession. The first essential is to weed out the unfit by medical examination, not merely by medical examination but also by finding out actually how many of them whose names appear on the rolls are really bogus persons, because I am told that many of these seamen whose names still appear on the rolls are no longer in the land of the living. Then there is an idea also of undertaking a scheme for the training of ratings. That would benefit the new entrants in the future. Now all this depends upon an effective supervision and control on the part of Government and it is for the purpose of providing a machinery that could be entrusted with this task that I have made this proposal in this Bill for the appointment of seamen's employment offices.

[Shri K. C. Neogy]

As I have already stated, there is no desire to exclude the bi-partite organizations that may be found to be sufficient for the purpose of advising or even of undertaking the actual work of recruitment on behalf of the employment offices, but everything would depend upon the conditions that might prevail at the time as regards recruitment and also the efficiency with which these labour organizations would function. Sir, this is the object of this Bill and I hope that the House will not find it difficult to accord its approval to it.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, be taken into consideration."

Sjt. Kuladhar Chaliha (Assam: General): Sir, the hon. Mr. Neogy has given in full detail the entire history of this covenant and also this Bill. He has taken very great pains to trace the history from the Geneva Convention down to the present day and he has also given a description of Clow Enquiry Committee. But that was as far back as 1922 and I do not know what the recommendations of this Committee really are, and he has not been good enough to give us a summary of those recommendations, but yet what he said was that if the present Bill is passed, all the defects would be removed. But I am sorry I have a suspicion about the whole thing. It seems we are depriving by this measure the freedom of the individual to choose any occupation he likes. If they have to go to an employment bureau and get themselves registered for employment on payment of some fees, we may find ourselves in a vicious circle. Probably all the corruption and bribery which now exist will reappear under this method also. I know of some cases in which very intelligent young fellows ran away from their homes, got themselves in touch with some captains for service in ships, ultimately becoming efficient seamen and sailors. I know of one such man who went to Bombay under an assumed name and after service in some ships became the captain of a small ship. If we have the system proposed by the hon. Minister for selecting seamen, we will be depriving our youths of their originality for certain things and also their ability for leadership. I do not think we can approve of the system prevalent in Bombay or elsewhere. Whatever it is, the system advocated twenty-seven years ago should not be adopted now. Sir Andrew Clow was not a liberal statesman. We know he was a great reactionary. We know him as Governor of Assam. We know his views and as such his recommendation should not be adopted. He was not sympathetic to labour and his recommendations for labour would not be beneficial to it.

Sir, before coming forward with a Bill of this kind I feel that the hon. Minister should have appointed a small committee to go into the question of amending section 26 of the Merchant Shipping Act. People in Bombay should have been consulted. The hon. Minister gave the names of three countries where such employment bureaus existed. But may I point out that in other advanced countries there are no such employment bureaus? What is the reason for it? They must have cogent reasons for not having them. In such circumstances why should our hon. friend, who is known to be intelligent and capable, come forward with an amending Bill of this kind? He has presented certain facts to us, but not important facts justifying the passing of a measure of this kind. Unless we have the views of a duly appointed enquiry committee or the views of the Governments of West Bengal or Bombay, we should not agree to this measure. He has not told us what the views of those Governments are.

Shri R. K. Sidhva (C. P. and Berar: General): The ports are not within their jurisdiction.

Sjt. Kuladhar Chaliha: But those Governments would have their views on matters like this. I am surprised that Mr. Sidhva has spoken like that. He ought to have his own views on matters presented to him. My submission is that this Bill will deprive our young men of the fundamental right of choosing their own vocation and compel them to go through certain bureaucratic formalities for getting employment. I have some experience of Act VI regarding the agency for recruiting labour for tea plantations and the abuses there. My hon. friend Mr. Neogy was once upon a time an advocate for the abolition of that Act. He was then a non-official Member of this House. I do not see any reason why he should change his views now and bring into existence a system which he disliked. At any rate, Sir, we should have the opinion of the Seamen's and Sailors' Committees on this measure before we agree to it.

Sir, if Government open some training centres for our boys to become seamen I would support this measure. For the reasons advanced by me I have suggested an amendment to the Bill.

The Honourable Shri K. C. Neogy: Then what will remain of the Bill?

Sjt. Kuladhar Chaliha: But I say, you are depriving a man of his right to select his own occupation. Why are you rushing with this legislation?

Mr. Speaker: The hon. Member is repeating himself.

Sjt. Kuladhar Chaliha: They ought not to have come with a legislation of this sort. They should withdraw it.

Prof. N. G. Ranga (Madras: General): I am surprised that my otherwise very cool-headed friend has warmed himself up so much.

The Honourable Shri K. C. Neogy: Because of the association of this piece of legislation with the name of Governor Clow.

Prof. N. G. Ranga: I do not think there is any justification for such severe criticism of this Bill. In various other countries, not only in regard to this small matter, but in regard to general employment, what is known as compulsory labour exchange is being established. Last year, when the I.L.O. met at San Francisco, it considered this matter and made recommendations to all the countries to establish labour exchanges for all employment so that every worker would be assured of a job and would be provided with the necessary training and he need not have to depend upon the sweet will and pleasure of this or that employer. I am glad that at least in this regard the Government propose to bring in compulsory registration at an employment exchange. I do not think there is any need to be afraid of this employment exchange.

The hon. Minister has already stated that the I.L.O. representative himself has testified to the existence of evils in the existing system. Even if this employment exchange were to indulge in a certain amount of red-tapism and corruption, that cannot come to even a tenth part of the corruption, etc. that now exists, as between the shipping authorities on the one side and the recruiting agents on the other.

Secondly, Sir, there has been a tremendous amount of unemployment and people who got into it some time ago have made the profession a caste profession, a traditional profession so much so that they have made it a sort of vested interest. Many others wanted to get into it, especially during the war, but what happened? These others could not get in because the others who had gone in before had established themselves there and would not allow any chance to the new people to get an entry in this industry.

Sjt. Kuladhar Chaliha: That happened in Calcutta.

Prof. N. G. Ranga: In Bombay, also. Because the prospects there are better than on land and other unskilled employments, more and more people are anxious to get into this industry. We are now going to develop our merchant navy and our Navy and we must make sure that we have a large enough body of people from whom we could go on recruiting the requisite number of people and the right sort of people. How are you going to do it if you are not going to control this evil, this evil of tradition, this evil of caste, this evil of corruption?

Thirdly, Sir, there is no reason why we should grow so very angry with Mr. Clow. It may be true that when he became a Governor, he became a bad man. I do not know. I leave it to the experience of Mr. Chaliha. But when he was Labour Member here and earlier when he was Labour Secretary for a number of years, I had the honour of working with him in this House and I can testify to this that Mr. Clow was considered to be one of the best friends of Indian labour and labour in general.

Shri B. Das (Orissa: General): Better speak for yourself.

Prof. N. G. Ranga: Of course, I am speaking for myself, not for Mr. Das, because Mr. Das has always been the friend of the employers. On that Committee with Mr. Clow was associated Mr. N. M. Joshi whose labour credentials even Mr. Das would not question. It was a unanimous report. They made this report so many years ago, some 27 years ago. It was not the fault of Mr. Neogy that he has come forward with this Bill to give effect to their recommendations at this late hour. On the other hand we should give him credit that at least now he has come forward with this Bill even though all these years so many of his predecessors had neglected their duty. Now we are going to develop our merchant fleet and our Navy and therefore we are anxious to put more and more people, the right sort of people, there, and we do not want mere unskilled people to be sent in. Therefore the Government is taking upon itself the responsibility of starting a training centre to train as many of these people as possible, making them skilled. This will also save the seamen from the evils from which they have been suffering all these years. Sir, I have great pleasure in supporting this Bill.

The Honourable Shri Jagjivan Ram (Minister of Labour): I would not have intervened in the debate but for the warmth with which Mr. Chaliha has raised so many points which are not relevant to the proposals contained in the Bill. Mr. Chaliha said that employment offices or the appointment of Employment Officers will deprive the individual of his choice of occupation. Sir, it is very difficult to understand how Mr. Chaliha reaches that conclusion that by the recruitment of seamen through the Employment Officers or the Employment Offices they will be deprived of their choice of occupation. In the first place, only those persons who are working as seamen or who are willing to work as seamen will be employed by the Employment Offices, and so the question of depriving them of their liberty of choosing their occupation does not arise at all.

Secondly, I do not want to go into those details which have already been covered by my colleague the hon. the Commerce Minister. The one point that I would like to stress is that the analogy of the Arkati (Indenture labour) system or of indentured labour does not arise at all. As a matter of fact, when Mr. Chaliha rose to speak on this motion, I was surprised as he comes from a province which has no proximity to the sea, and my apprehension was justified when he brought his knowledge of the recruitment of labour for the plantations of Assam to bear upon the recruitment of seamen.

Shri R. K. Sidhva: His wider knowledge.

The Honourable Shri Jagjivan Ram: His description of the recruitment of plantation labour held good some one or two decades ago, but those conditions have ceased to exist even among the plantation labour since we appointed a Superintendent or Controller of Emigrant Labour to administer the Emigrant Labour Act. I am sure Mr. Chaliha is well aware that there have been effected so many changes and improvements even in the recruitment of the labour meant for the plantations. His analogy of indentured labour does not hold good at all in this regard.

Then he raised the question whether the Governments of Bombay and West Bengal were consulted in this matter and Mr. Sidhva has given him a reply, but I may mention one or two things for his information. When some time ago a bi-partite organisation was set up for the recruitment of seamen, Dr. Suresh Banerjee was Labour Minister of West Bengal and he approached the Commerce Ministry and the Labour Ministry as well in this respect. He was insistent that Government also should be represented on that organisation, and since then we have been thinking whether we can evolve a scheme by which the Government will have an effective voice in seeing that right sort of people are supplied to the industry. After examining the schemes prevalent in different countries, the Commerce Ministry came to the conclusion that it will be in the best interests of not only the seamen but also in the national interests to have the Employment Exchange system here. If I may inform the House, Sir, a very large percentage of those, who are known as seamen are, not only unsuitable or unfit for employment but a very large proportion of them are not Indian nationals. Therefore it has become necessary that some sort of rational scheme should be brought into being to see that suitable persons are engaged in this profession and the corruption, bribery and nepotism that is going on is ended. I think I have given some information on the points which were raised by my friend Mr. Chaliha, of course based on his experience of plantation labour which has not got much relevancy to sea labour.

Shri B. Das: Sir, I wholeheartedly support the measure which the hon. Commerce Minister has introduced. The main points which I desired to touch have already been covered by the hon. Shri Jagjivan Ram. My reasons are from the security point of view. I am not interested in what Sir Andrew Clow did or what Mr. N. M. Joshi did. My friend Prof. Ranga gloats upon the continuity of the labour policy of Sir Andrew Clow and even of my old friend Mr. Joshi. But I hope sometime when he thinks quietly he will find that the labour policy of Sir Andrew Clow has done industry and industrial development in the country the greatest harm. But that is not the point under discussion.

Since the partition of India some of us have been very agitated about the seamen that are being employed in the Indian Merchant Shipping or in the Royal Indian Navy. Most of them come from Pakistan. They are from East Bengal, the home province of the hon. the Commerce Minister. Today one does not know whether a seaman is an Indian national or a Pakistan national. There are many who are now ushered in as nationals under the citizenship article of the Constitution which we have adopted and these people are not Indians. They may be Indian-born but their allegiance or loyalty is to another country. It is high time that the Government adopt the system of employment exchange bureaus, by which we would know the nationality of the seamen whom we are recruiting. There are seamen from Janjira who are mostly Muslims but there are also other people from other parts. The people of Chittagong, for reasons of race, classify themselves as Indians. But the moment the stage of earning is over they become very loyal and faithful citizens of Pakistan. That is a problem which we will have to solve and avoid the consequent dangers. We do not want Quislings either in the Indian

[Shri B. Das]

Navy or in the Indian mercantile marine. With the employment bureau functioning we would know the nationality of every prospective seaman who is registered. There are Hindus in Bombay Presidency and there are people in my own province of Orissa who will prove able seamen. Somehow the British mercantile marine and the foreign merchant ships had never allowed Hindus to enter as seamen. There were prejudices and other reasons against them but today we should have a larger horizon and a broader view point. Are we going to employ Pakistan seamen who might temporarily call themselves Indians and who might later do sabotage both in our merchant shipping as also if possible in the Indian navy? These facts compel me to support the measure. The hon. Labour Minister knew this, he knows it and even hinted at it and I am sure he will help the country so that we develop and train the right type of seamen.

I am glad my friend Dr. Keskar is here. However much friendliness we might show to the neighbouring territory of Pakistan we will have to safeguard ourselves against the possibility of Pakistan seamen under the guise of Indian seamen doing sabotage. In case Pakistan declares war against India this is quite possible. I am not very happy over Pakistan's attitude towards us today. So for security reasons and also for the safety of Indian bottoms engaged in trade and commerce I am glad to support the measure.

I am glad to hear from my hon. friend Mr. Jagjivan Ram that the old indentured labour system has been put an end to. But I would remind my hon. friend Mr. Chaliha that it was Orissa labour that was maltreated in the tea gardens of Assam for years. It was they who were sweated and it was their lifeblood which enriched the English planters of Assam. Mr. Chaliha may have his suspicions but he will agree with me that Republican India should be strong and healthy in commerce and trade and our security should be fool-proof. In the Indian navy we must have seamen who are patriotic nationals and not those who only seek employment under the guise of being Indian nationals. I know that it will be a hardship to many people in Chittagong district, who are today employed as seamen all over the world. They go by the name of Indians. Up to now we had no registration office for nationalisation or citizenship. U.K. was the largest recruiting place for the employment of Indian seamen in foreign bottoms. I would be glad to hear from my friend Mr. Neogy that they have in mind this point of nationalisation and citizenship and that wrong notions of citizenship will be set right by these employment exchanges.

श्री लक्ष्मीनारायण साहू : वाचस्पति जी, इस प्रस्तुत विधि में जो कारण दिये गये हैं, उस कारण को देखते हुए मैं समझता हूँ कि इसका परिवर्तन हो सकता है। पहले हम देखते हैं कि सीमेन (seamen) ज्यादा हो जाते हैं और शिप्स (ships) उतने नहीं हैं। जब ज्यादा शिप्स होंगे, तब सीमेन उसमें खप जायेंगे। इस लिये हम लोगों की शिपिंग (shipping) ज्यादा होने से जितने सीमेन मिल जायेंगे उसमें खप जायेंगे। हम लोगों को यह नहीं करना होगा कि जहां सीमेन यूनियन कायम है उसको तोड़ के यह नया रेजिस्ट्रेशन करना। सीमेन यूनियन की तरफ से जब हम लेबर (labour) को ठीक करेंगे, सब आदमियों को जहाज में भेजने के लिये काम करने के लिये जब भेजेंगे, तो उसमें क्या हर्ज है। सरकार चाहे तो उनका प्रतिनिधि सीमेन यूनियन (Seamen union) में रखदे। जो यह डर होता है

कि हिन्दुस्तान के टुकड़े हो जाने के बाद सी (sea) में, जहाज में, जो काम करते हैं, उनमें ज्यादा तादाद इण्डियन नेशनल की नहीं है, सीमेन यूनियनस जो हैं, उनके जरिये से हम उसको ठीक कर सकते हैं। जब गवर्नमेंट को इतना शुबहा होता है कि इण्डियन नेशनलस उसमें न रह कर बाहर के आदमी भी रह सकेंगे, तो सीमेनस यूनियन जो हैं, उसमें गवर्नमेंट के प्रतिनिधि भी जब रहेंगे, तो काम ठीक तौर से चलेगा। मुझे यह भय होता है कि गवर्नमेंट पूरी तौर से जब इसका प्रबन्ध कर लेगी, तो उसमें जो लोग काम करेंगे, उनकी स्वतन्त्रता कुछ नहीं रहेगी। इस लिये मुझे बहुत भय होता है जैसी कि विधि अभी वाणिज्य मन्त्री ने हमारे सामने रखी है, उस विधि को जैसी है, वैसी पूरी हम लोग पास न करें। मैं तो चाहता हूँ कि इम्प्लोयमेंट एक्सचेंज (employment exchange) आफिस है, लेकिन उससे कुछ जनसाधारण को फायदा होगा, मेरी समझ में नहीं आता। यह सब देखते हुए मैं सोचता हूँ कि परिवर्तन थोड़ा करने से अच्छा होगा।

एक बात अभी आई कि सीमेन (seamen) ठीक काबिल नहीं हैं और उन लोगों को ट्रेनिंग की जरूरत है। तो यह तो सबको पसन्द है। जब सीमेन की ट्रेनिंग का बन्दोबस्त होगा तो जो सीमेन का काम करेगा वह ट्रेनिंग में जाना जरूर चाहेगा। इसमें तो किसी को मतभेद नहीं हो सकता है।

मैं इस बारे में और ज्यादा नहीं कहूंगा। इतनी उम्मीद करता हूँ कि जब नान-आफिशियल (non-official) सीमेन्स यूनियन है तो उसके जरिये से सब सीमेन को चुनेंगे और सीमेन भेजेंगे। इसमें क्या हर्ज है यह जरा वाणिज्य मन्त्री मुझे समझा देंगे तो जो मेरा सन्देह है वह दूर हो जायगा।

(English translation of the above speech)

Shri Lakshminarayan Sahu (Orissa: General): Sir, keeping in view the causes set forth in the proposed scheme, I consider it is capable of alteration. In the first instance it is observed that seamen exceed the number of available ships. The moment the number of our ships is increased, it will become possible to absorb all the available seamen. The fresh registration of seamen should not be necessary at places where their unions exist. Such a course will be only at the expense of those unions. No harm will come if the channels of various seamen unions are availed to bring the labour to do the right thing or send all of them abroad for work. The Government, should they so desire, can have their representatives in the unions. The fear regarding the majority of seamen being of non-Indian nationality as an aftermath of Partition can be eliminated through these unions. Whenever the Government are apprehensive of the presence of non-Indians in spite of the Indian nationals in them, they can have their own representatives therein and the whole matter will have a smooth sailing. I rather fear that, should the Government make arrangements to this end workers of the unions will lose their freedom of action. I entertain grave fears about the proposed scheme in the form it has been put before the House by hon. the Minister of Commerce

[Shri Lakshminarayan Sahu.]

and wish it not to be passed in its entirety. I doubt if the Employment Exchange Offices can do any material good to the common man or at least I don't understand it. Taking all this into consideration I am of the opinion that it shall be better to effect only minor changes.

Another point has just been made. This is that seamen being not well qualified need training. All would welcome this suggestion. Once arrangements to this effect are complete, all those people working as seamen will surely like to undergo training. There can be no difference of opinion in this matter.

I will not like to say more in this connection. I don't see any harm if the seamen are selected or sent to sea by the non-official unions. I hope hon. the Minister of Commerce will kindly explain the matter so that my doubts are removed.

Prof. N. G. Ranga: Sir, the question may now be put.

Mr. Speaker: I will allow Mr. Naziruddin Ahmad to speak a few words.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, it is somewhat surprising that some very ordinary common-sense remarks of my friend Mr. Kuladhar Chaliha should make some big guns in the House like Professor Ranga, Mr. Jagjivan Ram and Mr. Das to discharge their bullets. What my friend Mr. Kuladhar Chaliha said was that there is corruption, and he mentioned some instances of corruption. This argument was controverted by the absurd argument that his experience was confined to tea labour and did not extend to seamen. But corruption is a class by itself, it is a classical institution. It does not depend upon the particular place where it is practised. It is a very general trade which thrives in any atmosphere and a man who has studied corruption in one place is certainly competent to express his opinion in other spheres.

Sir, I quite agree that there is corruption. The head-breaking system and other things mentioned by my hon. friend are perfectly true. But what you are going to do is that corruption should not be practised by non-official agencies, that there should be a government controlled agency to do that for them. I submit that there is a grave risk of corruption being introduced in the labour offices which you are going to set up because human nature is after all what it is and you cannot simply eliminate it by transferring the scene of action. The men who practise it are there and the effect of this would be to introduce the system of corruption in employment offices. (*Interruption.*) What is going to be done is, as Mr. Kuladhar Chaliha suggests, that it would be a legalised form of corruption. I submit that a better way of expressing it would be that the hon. Minister is trying to 'nationalise' corruption. Corruption which is a thriving business is going to be taken over by Government and run on superior lines. I express my misgivings in this regard and I hope the hon. Minister will try his best to avoid the risks which are inherent in it.

The Honourable Shri K. O. Neogy: Sir, I would not have thought it necessary to intervene once again in this debate, particularly after the speech made by my hon. colleague the Minister of Labour as also the speech made by my hon. friend Prof. Ranga. I am particularly impelled to make a few observations in view of certain remarks that have been made particularly by the two hon. Members from Orissa. In the first instance I should try to remove certain misapprehensions which seem to prevail in their minds. I want to assure them that so far as the Indian Navy is concerned there is no Pakistani national among the ratings or among the officers. Again, in the next category of shipping which may be described as Indian-owned shipping, Pakistani seamen do not certainly form the majority. But in the remaining number of seamen, that is to say, those who are employed on ships other than those that are owned by Indian shipping concerns, they constitute a very large

majority. According to the long-established conventions prevailing all over the world, nationality does not determine the right of recruitment at any port in any part of the world. We are not therefore entitled to say that a Pakistani national, because he is a Pakistani national, has not the right to be recruited in the ports of Calcutta and Bombay by any shipping company that wants to recruit him. I should like to make that position very very clear. And it is not with the object of discriminating necessarily against the Pakistani seamen by the provision of a government machinery that I have brought forward this Bill. He may be a Pakistani, he may be Australian, he may be Chinese—Chinese seamen are recruited in America for instance—anybody who has qualifications of a kind that fit him out for this job and who satisfies the other conditions would be entitled to be recruited in the ports of India irrespective of his nationality. That is the only point in regard to which I wanted to make the position clear.

Mr. Speaker: The question is:

"That the Bill further to amend the Indian Merchant Shipping Act, 1923, be taken into consideration."

The motion was adopted.

Mr. Speaker: We will not take the Bill clause by clause.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

श्री लक्ष्मीनारायण साहू: वाचस्पति जी, मैं इस बारे में ज्यादा नहीं कहना चाहता हूँ। मैं इतना ही कहूँगा कि मेरे नाम में दो अमेंडमेंट हैं। एक यह कि बिल के तीसरे क्लॉज को ओमिट (omit) कर दिया जाय, दूसरे यह कि बिल के तीसरे क्लॉज में प्रपोज्ड नये सेक्शन २५ ए के सब सेक्शन ५ के क्लॉजबी का पार्ट २ को ओमिट (omit) कर दिया जाय।

(English translation of the above speech)

Shri Lakshminarayan Sahu: Sir, I do not want to speak much on this issue. I say that two amendments stand in my name. First is to the effect that clause 3 of the Bill be omitted. The second amendment seeks that in clause 3 of the Bill, part (ii) of clause (b) of sub-section (5) of the proposed new section 25A be omitted.

Mr. Speaker: I wanted to have the position cleared about his amendments. Of course, his first amendment is out of order. I will call upon the Members who want to move amendments to clause 3.

Shri S. V. Krishnamoorthy Rao (Mysore State): Sir, I have given notice of a few amendments.

The Honourable Shri K. O. Neogy: I am prepared to accept third amendment of the hon. Member. I have given notice of the very same amendment.

Mr. Speaker: Is the hon. Member going to move his first amendment?

Shri S. V. Krishnamoorthy Rao: Yes, Sir. I think it is necessary.

Mr. Speaker: I will leave it to him. If he wants, he may move it.

Shri S. V. Krishnamoorthy Rao: I will move it after hearing the hon. Minister.

Mr. Speaker: But unless the amendment is there, how can that be done?

Shri S. V. Krishnamoorthy Rao: I shall move all the four amendments. I move:

(i) "That in clause 3 of the Bill, in sub-section (1) of the proposed new section 25A of the Indian Merchant Shipping Act, 1923, for the words 'thinks fit', the words 'deems necessary' be substituted."

(ii) "That in clause 3 of the Bill, in sub-section (3) of the proposed new section 25A of the Indian Merchant Shipping Act, 1923, for the words 'to be entered', occurring in line 4, the words 'for entry' be substituted."

(iii) "That in clause 3 of the Bill, in sub-section (3) of the proposed new section 25A of the Indian Merchant Shipping Act, 1923, for the word 'seamen' occurring in two places in line 5, the word 'seaman' be substituted."

(iv) "That in clause 3 of the Bill, in sub-section (4) of the proposed new section 25A of the Indian Merchant Shipping Act, 1923, for the words 'to be entered', the words 'for entry' be substituted."

Of course the hon. Minister has accepted amendment No. 7. The second and the fourth amendments are identical. I have moved them to make the meaning quite clear. Now it reads "shall receive or accept to be entered". "Entered" refers to seamen. But as it is, it may be construed as referring to the officer who receives them. If the clause were to remain as it is then the words "any seamen" should come before "to be entered"; or, my amendment "for entry" has to be accepted. If, as I stated, "any seamen" is interposed between "accept" and "to be entered", then, however, it would make the meaning clear.

Mr. Speaker: He has practically dealt with the last three amendments.

The Honourable Shri K. C. Neogy: The second and the fourth go together, in a sense. I am prepared to accept the third.

Shri S. V. Krishnamoorthy Rao: Then I am not going to press the second and the fourth amendments.

Mr. Speaker: All right. I will place the third amendment before the House.

The question is:

"That in clause 3 of the Bill, in sub-section (3) of the proposed new section 25A of the Indian Merchant Shipping Act, 1923, for the word 'seamen', occurring in two places in line 5, the word 'seaman' be substituted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, I move:

"That in clause 3 of the Bill, in sub-section (3) of the proposed new section 25A of the Indian Merchant Shipping Act, 1923, the words 'in existence' be omitted."

In the context these words are absolutely unnecessary. The context is:

"Where there is in existence at any port a Seamen's Employment Office....."

I want to remove the words 'in existence', and then it would read as follows:

"Where there is.....at any port a Seamen's Employment Office....."

If we say:

"Where there is.....at any port a Seamen's Employment Office....."

the word 'is' implies its existence. It inevitably implies that it is really in existence. You cannot have a Seamen's Employment Office which is never in existence. So, the words 'in existence' are unnecessary.

The Honourable Shri K. C. Neogy: Sir, to my mind there is hardly any difference in substance, but it seems to me the wording as it stands reads somewhat better. That is all that I can say.

Mr. Speaker: I need not express any opinion on that, but it appears that the wording seems to be necessary because it means that when this particular section comes into operation, the office is in existence. That is the force of it, as I see from the language. Anyway, if it is not a very material matter, does the hon. Member press his amendment?

Mr. Naziruddin Ahmad: No, Sir.

Mr. Speaker: Then I need not place it before the House. Then next amendment. Dr. Mono Mohon Das is not present. Next amendment.

Shri Lakshminarayan Sahu: वाचस्पति जी, मेरा संशोधन वह है (Sir, I move):

"That in clause 3 of the Bill, part (ii) of clause (b) of sub-section (5) of the proposed new section 25A of the Indian Merchant Shipping Act, 1923, be omitted."

Mr. Speaker: Amendment moved:

"That in clause 3 of the Bill, part (ii) of clause (b) of sub-section (5) of the proposed new section 25A of the Indian Merchant Shipping Act, 1923, be omitted."

What is the reaction of the hon. Minister to this amendment?

The Honourable Shri K. C. Neogy: Sir, the object appears to be to prevent any fee being levied by the Employment Office. While I give the assurance that there is no intention on the part of Government to make any profit out of it, I should like to state that the fee would be required for the purpose of meeting the expenses of the organisation that will have to be set up. I may mention to the House that even at the present moment there is a fee charged by the tripartite organisations like the Maritime Board, at the rate of one rupee, as far as I know, per head of seamen on each occasion when recruitment takes place. The legality of the levy is being questioned; that is to say, it is contended that it is not authorised by law, but we feel that Government should be able to raise sufficient revenue from the fee to be charged to the seaman for the purpose of running the necessary establishment to be set up. From that point of view I am not in a position to accept this amendment.

Mr. Speaker: The question is:

"That in clause 3 of the Bill, part (ii) of clause (b) of sub-section (5) of the proposed new section 25A of the Indian Merchant Shipping Act, 1923, be omitted."

The motion was negatived.

Mr. Naziruddin Ahmad: Sir, I move.

"That in clause 3 of the Bill, in the *Explanation* to the proposed new section 25A of the Indian Merchant Shipping Act, 1923, after the word 'unless', the word 'so' be inserted."

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): It is there at the end.

Mr. Naziruddin Ahmad: Yes, in that case I don't press it.

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.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri K. C. Neogy: I move:

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

Mr. Speaker: Motion moved:

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

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I had no intention to intervene but I wanted to intervene earlier immediately I heard my hon. friend Mr. Naziruddin Ahmad saying that possibly you are substituting one corrupt institution for another corrupt institution. I entirely disagree with him. If he thinks that in a country even the Government becomes corrupt and it is impossible to correct the Government, then I think he may as well give up that country and go to some other place.

Mr. Naziruddin Ahmad: I did not say that the Government itself was corrupt.

Shri M. Ananthasayanam Ayyangar: The Seamen's Employment Office is going to be appointed by the Government and every possible step will be taken so that there is absolutely no corruption. In human institutions it may generally be said that there may be scope for corruption here and there. We are only progressively trying to curb that practice. My friend is an advocate but merely because some murders are still committed we cannot cancel the Penal Code. So, I welcome this measure. I would welcome this principle not only for this but for all kinds of labour. Organised labour is the only salvation to the security of any country. It must be there. Both horizontally and vertically labour should be organised everywhere. I would like that there should be an employment exchange for each industry or factory. There is provision in this Bill for the appointment of Advisory Boards. I am sure in the Advisory Board the employer and an expert seaman and also other technical persons will find a place. There are ample provisions to safeguard against corrupt or malpractices. No unnecessary or incompetent person will be thrust on an employer, nor would it be left to the freaks of an employer to choose one man and throw out another. This provides against a man being thrown out at the whim of an employer. This Bill is intended to prevent a poor man who is driven by hunger to seek employment from being exploited. I am sure there is absolutely nothing wrong going to happen under this Bill. On the other hand, there is everything to gain by it. I would like this Board to look into the punishments of the men also from time to time. One of the functions which can be properly assigned to it is that. At the time of employment, an individual may come to the employer through the employment exchange, but if the employer does not want him, he can easily throw him out. Gradually,

therefore, the powers of the employment exchanges ought to be increased for the purpose of safeguarding the career of the man employed. Otherwise, the man would not really have a sense of security.

There is one thing more that I would urge. This Board should be in the hands of the Labour Ministry. It should not be a wing of the Commerce Ministry. All labour must be organised in one Department. They are the better people to do it. They are looking into it from time to time. Therefore, it must be under the general supervision of the Labour Ministry. Sir, I support the motion.

Mr. Speaker: The question is:

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

The motion was adopted.

MERCHANT SHIPPING AND LIGHTHOUSE (AMENDMENT) BILL

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

"That the Bill further to amend the Indian Merchant Shipping Act, 1923 and the Indian Lighthouse Act, 1927, be taken into consideration."

This measure has been necessitated by an act of administrative decentralisation that has been undertaken by Government for the purpose of facilitating the executive work of an administrative character pertaining to problems of Indian shipping. This office and this officer have been in operation for about six months now. What has been happening is that due to the fact that certain statutory functions have to be necessarily performed by the Government of India under the provisions of these two laws which I seek to amend, the decisions which could otherwise be taken by this officer have to be referred to the Commerce Ministry for purposes of formal endorsement. The Commerce Ministry does not exercise any power in regard to those matters. It is not necessary that it should do so. The Ministry is concerned more with policy questions and these matters of administrative detail had better be left to the organisation that has been set up, and this can be only done by way of delegating the authority of the Government of India to this officer, but I should like to point out that this delegation is not an absolute delegation. Under the wording of the relevant clause, the powers should be exercisable 'also by the Director-General of Shipping', that is to say, whereas the Government of India would be authorised under the various provisions of law to exercise these powers, under this delegation the Director-General also would be entitled to exercise those powers. This is needed merely in the interests of administrative efficiency and I do not think I need take the time of the House any more.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Indian Merchant Shipping Act, 1923 and the Indian Lighthouse Act, 1927, be taken into consideration."

Shri B. Das (Orissa: General): It must have gladdened the soul of my friend Mr. K. C. Neogy that he has crowned into success the shipping policy that he as one of the most prominent Members of this House has been advocating for the last twenty-five years or more. We welcome the Director-General of Shipping. We welcome this delegation of power and I hope our Director-General of Shipping will have the patriotic instinct to understand our demands for the last twenty-five years and will see that soon we have got a glorious Indian Merchant Shipping excluding all foreign Shipping from the coast of India, I am very glad. I support this measure.

Mr. Speaker: I do not think any reply is called for. So I will put the motion. The question is:

"That the Bill further to amend the Indian Merchant Shipping Act, 1923 and the Indian Lighthouse Act, 1927, be taken into consideration."

The motion was adopted.

Mr. Speaker: We will now take the Bill clause by clause.

Shri R. K. Sidhva (C. P. and Berar: General): I beg to move.

"That in clause 2 of the Bill, in the proposed new section 4A of the Indian Merchant Shipping Act, 1923, for the word 'Director-General' wherever it occurs the word 'Manager' be substituted."

My point in suggesting this change is this. The Director-General may mean a very great liability to the State. Surely, his salary will be very high. I do not know what his salary will be. The work is not to that extent as to justify the designation of the post as Director-General. There is nothing wrong in the word "Manager". It is a shipping concern and I do not think you should have a Director-General for it. I would like to know from the hon. Mover what salary this post carries. If it is a reasonable amount I have no objection. I find that the Director-General of Posts and Telegraphs and the Director-General of Industries and Supplies are paid more than Rs. 3,000.

The Honourable Shri K. C. Neogy: Here also it is Rs. 3,000.

Shri R. K. Sidhva: There you are. That is why I move this amendment.

Mr. Speaker: What is the position about the amendment?

The Honourable Shri K. C. Neogy: I think there is a serious misapprehension about the status and functions of this officer. He is not the Manager of Indian shipping in the sense of a private concern or a Government concern. He has to deal with all manner of questions relating to shipping that arise with reference to various shipping interests all over the world. He could not be called the "Manager" of Indian Shipping. As a matter of fact, the designation is no real test as to the salary of a particular officer. There are Managers whose pay is Rs. 6,000 or even more in some cases.

The Honourable Shri Jagjivan Ram (Minister of Labour): In the Railways, they get Rs. 3,500.

Shri R. K. Sidhva: He is a General Manager. However, I do not press my amendment.

Mr. Speaker: So I am not placing it before the House.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri K. C. Neogy: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

INDUSTRIAL DISPUTES (BANKING AND INSURANCE COMPANIES) BILL

The Honourable Shri Jagjivan Ram (Minister of Labour): Sir, I move:

"That the Bill to provide for the adjudication of industrial disputes concerning certain banking and insurance companies, be taken into consideration."

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

Sir, early this year a large number of disputes were threatened in the banks in the various parts of the country and though banking concerns do not come within the jurisdiction of the Central Government a large number of representations were sent to me and to my Ministry requesting us to intervene in the matter. We had consultations with the Provincial Governments and we thought it proper that some steps should be taken to avoid the threatened disputes in the banks which if materialised would have led to serious economic consequences. As at that time we had no power we could not do anything in the matter. Since then some amendment in the Constitution was made by which authority was taken by the Central Government to the effect that if Parliament so authorised certain items which till then fell within the Provincial List may be taken up by the Centre. After that an ordinance was promulgated by which banking companies and insurance companies which have branches in more than one province became the responsibility of the Centre. After the promulgation of that Ordinance a tribunal was set up to which the disputes, or threatened disputes practically in all the banks in the country were referred. That tribunal is proceeding with its work. The period of the ordinance was to expire on the 31st of October. So it was again extended. The extended period of the ordinance will expire after six months. So it was thought proper that this opportunity may be taken to have a regular Act to replace that ordinance. The measure is a very simple one and I do not want to take the time of the House in making a long speech on it. I hope the House will accept my motion.

Mr. Chairman: Motion moved:

"That the Bill to provide for the adjudication of industrial disputes concerning certain banking and insurance companies, be taken into consideration."

Shri Harihar Nath Shastri (U. P.: General): Sir, I desire to say only a few words on this measure. I regret I cannot see eye to eye with the hon. Minister in regard to the advisability of the promulgation of the ordinance which is now proposed to be converted into an Act. I do appreciate the motive behind it, that is to say, to ensure uniformity in regard to the working conditions in various banks of the country, but I must say that the circumstances in which this ordinance was promulgated were, to say the least, not very creditable.

Sir, with your permission, I would in a few words state the circumstances under which this ordinance was promulgated. Some time back—probably at the beginning of the year 1948—certain disputes arose in a number of banks in the United Provinces in regard to wages and other conditions of work. That dispute was referred by the Provincial Government to the then Labour Commissioner, Mr. B. B. Singh, and his verdict was enforced by the Provincial Government. After that there was a dispute in regard to the interpretation of the award of the Labour Commissioner. There were serious difficulties and the matter was referred by the Provincial Government to an eminent judge of the Allahabad High Court, Mr. Bind Basni Prasad. The Learned Judge took about five or six months to go into the whole dispute and while he was on the verge of pronouncing his judgment this ordinance was promulgated. I have no reason to believe—and it has also been accepted just now by the hon. Minister.

[Shri Harihar Nath Shastri]

though not in so many words—that the banking concerns of the United Provinces as also in certain other provinces made out a case that if the Learned Judge of the Allahabad High Court had been allowed to pronounce his award and if that had been accepted by the Government, it would have led to serious repercussions. They could somehow prevail upon the Government of India to withhold their consent or to stand in the way of the United Provinces Government to enforce the award:

Since this ordinance has been promulgated a large number of disputes that have been piling in the United Provinces and also in certain other provinces have remained in the cold storage, except for one dispute in regard to the payment of dearness allowance in the United Provinces. A large number of complaints have remained unredressed and by taking advantage of the situation, by taking advantage of the inability of the Government of India to handle the situation of all the provinces simultaneously, the banking companies have—at least I am personally aware of two or three provinces—victimized a large number of workers and their cases even today have remained unredressed.

The working of the ordinance raises a very vital question and that is whether the Central Government should interfere in the day to day administration of the labour affairs in the various provinces—whether it will be possible for it to manage the affairs and to control the situation. But that again is a subject that I do not want to deal with at the present moment, and I leave my detailed observations in regard to that subject to a later date when a very comprehensive measure is coming up before this hon. House. But at this moment when this Bill is coming up before the House, I think it is my duty to just express my views in a few words as to what I feel and as to what a large number of employees and organizations connected with the banking concerns have felt in this matter.

Shri R. K. Sidhva (C. P. and Berar: General): Sir, this Bill relates to large classes of people who work in banks and in insurance companies and this class is known as clerical workers. Unfortunately so many labour Acts that we have enacted have not worked successfully amongst this class of people, and their working hours are not regulated amongst the various offices in the principal towns, particularly in the commercial companies, Indian or European, where they are working. I know of offices where the clerks have to work right down from half past nine to half past eight, although in some cases the Shop Assistant Act apply in the provinces but generally they are not successfully operated on. Although the Act has been passed there is no proper machinery to see that the Act is regulated correctly in this class of work. Generally the Act vigilantly looks after the labour class or other class of people but the workers who are known as the lower middle-class are being absolutely neglected. I would request the mover of this Bill not to forget this class of people. I congratulate him for bringing this motion, although it is beneficial to the employers. To a certain extent bankers and insurance companies are essential services as it was known in the Defence of India Rules.

The Honourable Shri Jagjivan Ram: Not under the essential services?

Shri R. K. Sidhva: It is not at present. I was talking of during war-time; it was treated under the Defence of India Rules as an essential service. Now my hon. friend Mr. Harihar Nath Shastri told us now “Why should Government interfere in the day-to-day labour work of Provincial Governments?” With due respect to him, I do not agree with him—although he is the President of the All India Labour Association—that there should be provincial legislation. If any good is to be done to the labour class and this clerical class, there should be one Central Act and if that is the intention of the hon. Minister, I will congratulate him but I will tell him that he should not be misled that it is the

function of the Provincial Governments and, therefore, they should be allowed to function in this labour matter. There have been complaints from the various labour centres, I can tell you from my experience and they want a Central law which should govern uniformly all the provinces and if any good is going to be done to this clerical class, there should be really one Act. At present one Provincial Government has got one Act which is quite contrary to the others and discontent naturally exists. One Provincial Government enacts a little liberal Act and another a conservative Act. There is competition and discontent and the strikes are the order of the day. If you want to avoid all that I would request leaders of labour to fight for one Act from the Centre, if they want to do some good to them. While I do not agree with my hon. friend on that matter, I feel that the lower middle-class or the clerical class should not be ignored and I, therefore, support this motion notwithstanding strikes which have occurred in the past. In Calcutta the banking business for a number of days was at a standstill and in Bombay the Empire Life Insurance Company went on strike for nearly 2 months. Although the Bill is of a limited kind, I do not see any justification for making any further remarks, but having heard what the leader of the labour organizations had said, I thought it my duty to express that it is not correct to say that the labour class is satisfied with provincial laws. I also feel that the hon. Minister should always bear in mind that whenever he wants to bring relief to labour organizations, he should not forget this clerical class and when proper machinery is set up these commercial organizations should not be ignored. The employers flout these Acts in most cases even though they are applicable and also they are not regulated. My difficulty is that it may be a provincial subject. One Provincial Government likes to do it and another Provincial Government does not like to do it and, therefore, I feel it necessary that there should be a central and uniform Act. With these words, I support the motion.

Sjt. Rohini Kumar Chaudhuri (Assam: General): Sir, I do not think that this Bill is as simple as it looks or that it is as good as my hon. friend, the labour Minister would like to make it out to be. I see in this Bill an increasing attempt on the part of the Central Government to withdraw the powers from the Provincial Governments as far as possible. Now, Sir, I submit the only reason which has prompted the Government to bring forward this Bill is to have a sort of uniformity of action by any industrial concern which has branches in different parts of India and one instance which has prompted the hon. Minister to bring this Bill is what happened in the United Provinces. I would like to contend that these reasons which he has put forward are most unconvincing. Wherever any industrial dispute occurs it is the Provincial Government which is most directly concerned. It is the peace of that province which is broken, when industrial disputes break out in a violent form. Therefore, it should be left to the Provincial Government to take action as early as possible, so that the dispute might end, so that there may not be a serious breach of peace and tranquillity of that province. If this is left to the Centre, it is the experience of many in this House that the Centre may not be able to take action as quickly as it might be necessary to do. The hon. author of this Bill says in the Statement of Objects and Reasons: ‘A bank with branches in several Provinces had, therefore, to deal with a number of Provincial Governments and a number of agencies including tribunals set up by them for the settlement of disputes arising in its establishments. It was only to be expected that under such an arrangement it would be difficult for an organisation with country-wide establishments to maintain any principle of uniformity in the matter of wages, allowances and other terms and conditions of employment of its staff.’ I would ask the hon. Minister whether uniform allowances, uniform salaries, uniform wages and uniform terms and conditions can be maintained throughout India. Take for instance, the case of a bank which has its establishment both in Assam, Simla and other places. Can you pay the same wages for a man

[Sjt. Rohini Kumar Chaudhuri]

in Calcutta as you pay to a worker in Calcutta or for a worker in Assam or in distant place in India? Even the Government has got special hill allowances when people work in the hills. They pay hill allowance for working in the hills. These allowances will be different in different places. Similarly as regards hours of work, you cannot ask people to work in very cold regions as much as you can ask them to work in places like Madras or Calcutta. So, if there is any dispute in regard to wages or hours of work and allowances, there will be difference in the different provinces of India. You cannot have uniformity in regard to these. I submit therefore that the ground put forward is not a convincing ground.

Then, as I said, these disputes could very easily be settled if the appropriate Government is allowed to take action taking into consideration the circumstances that prevail there. Otherwise, the disputes will linger and even affect the other concerns as well. Therefore my submission is that we should not be misled by one instance that has come to our notice in the United Provinces and try to interfere with the working of the Industrial Disputes Act all over India.

With these words I would ask the hon. Minister to consider the points I have raised and give me a reply which may persuade me to support him.

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

"That the question be now put."

The Chairman: The question is:

"That the question be now put."

The motion was adopted.

The Honourable Shri Jagjivan Ram: Sir, I do not propose to give any detailed reply to the allegation that has been impliedly made by my hon. friend Mr. Harihar Nath Shastri. His allegation was that this Ordinance was promulgated at the instance of the Bank owners. I refute that charge. He said: 'I will say it was done in the interests of the employers of banks and insurance companies.'

He has raised the question of the tribunal that was set up by the United Provinces Government. I do not want to examine that allegation in any detail, because that examination may lead to certain remarks which may go against the United Provinces Government. As the United Provinces Government is not represented here, I do not want to make any reference to that. The only thing that I will point out to my friend Shri Harihar Nath Shastri is that he should ascertain the date on which the Bank dispute in the United Provinces was referred to Mr. B. B. Singh and then look to the dates on which B. B. Singh's award was made and was referred to Justice Prasad for clarification. Again he should look to the date on which the clarification was made. If he will find out these dates he will draw his own conclusion whether the dispute was resolved expeditiously and whether the Award was enforced promptly or not. I leave it to him to do so. I do not want to draw any inference on that point. But, as I said in the very beginning, I receive very large number of representations even to-day, not from employers, but from employees of concerns which fall purely within the provincial sphere. Having no jurisdiction and no power in regard to this matter I have to send up those representations to the Provincial Labour Ministers.

Shri R. K. Sidhva: What was the complaint?

The Honourable Shri Jagjivan Ram: There are many complaints about wages, dearness allowance, service conditions, etc.

Shri R. Sidhva: They are not satisfied with the provincial law?

The Honourable Shri Jagjivan Ram: They ought not to have come to me. But they have come and sometimes when I return from office one hundred or two hundred people are found collected near my gate. When I enquired I found that they came from Hathras, Meerut, Ghaziabad and so on where they were working in oil factories, textile factories and so on. All of them were purely within the provincial jurisdiction of the United Provinces. Sometimes the labour leaders who lead those deputations of one hundred or two hundred men are also fully aware that the establishments to which they belong were beyond my jurisdiction. All the same they come, and when they come, having no power, I direct them to the provincial Governments, but sometimes the provincial Governments themselves request me to intervene. What am I to do? I will give a concrete example for the information of my hon. friend Shrijut Rohini Kumar Chaudhuri. Plantation is purely a provincial subject and the Plantation Labour concerns three provincial Governments mainly viz. Assam, West Bengal and Madras. But many of my hon. friends like Shri Harihar Nath Shastri are aware that in spite of the fact that it is purely within the provincial jurisdiction. I have been dealing with plantation labour questions at the instance of the provincial Governments themselves. I have not tried to encroach upon their jurisdiction. I have no legal power in this matter. All the same, I have been dealing with this subject at their request. They feel, the labour leaders feel and the workers also feel that the matter has been handled to their satisfaction by the Centre.

Shri R. K. Sidhva: Quite right. Therefore the Centre should have this Act.

The Honourable Shri Jagjivan Ram: I do not propose to take the credit for me. But sometimes I am placed in this dilemma. Having no legal jurisdiction I receive requests from the employers and employees to intervene in certain matters and I have to do so. In this Bank matter, as I said at the very outset, the position was growing precarious. Not only there were disputes in the United Provinces, but there were difficulties in other provinces as well. I presume my friend Mr. Shastri is aware that there was growing discontent among the bank employees in the various provinces. At that time the jurisdiction was not assumed by the Centre by the promulgation of any Ordinance. The power and jurisdiction were entirely in the hands of the provincial Governments. I should like to know from my friend Mr. Harihar Nath Shastri whether he ascertained how many of the provincial Governments referred these disputes to tribunals for adjudication. Did I stand in their way? Was there an Ordinance standing in their way? I do not have full freedom to do whatever I liked in regard to those disputes. When I found that there was a growing demand on behalf of the workers as a whole I consulted the provincial Governments. And the ordinance was promulgated in general agreement with them. I will just give some figures in order to indicate the immensity of the work. The number of bank disputes which had been referred to the Central Tribunal is 205 and the issues in dispute that have been referred to them are 38. It has been complained that many cases are pending before them. The number of cases of victimisation disposed of by the Tribunal is 142 and the pending cases are 217. The Tribunal is meeting and trying to expedite the cases. It has been further complained that the disputes or the resolution of disputes are being delayed. I may say for the information of the House that we have engaged more staff than what the provincial governments were maintaining for bank disputes. After the promulgation of the Ordinance, the Central Government appointed 7 additional Conciliation Officers and 14 Inspectors which strength is greater than the combined strength of the staff maintained by the provincial governments for bank and insurance company disputes. On that score also, I do not think there has been any delay or there is any room for any grievance on behalf of the employees that

[Shri Jagjivan Ram]

their disputes are being delayed because the matter has been taken up in the hands of the Centre. Of course, the primary consideration for taking up this question in the hands of the Centre was that there should be some uniformity. Mr. Chaudhuri said that there cannot be uniform wages in different parts of the country. Obviously not. But there should be some uniform principle. When we say that there should be uniformity in wages, dearness allowance and time of work and other conditions of service, we certainly do not mean that there should be uniform wages in different parts of the country or uniform wages in different categories of banks, but we certainly do mean that there should be some uniformity in the principle on which the wages will be fixed, the salaries determined or dearness allowance paid. Suppose this question is dealt with by nine or eleven different authorities, then there may be eleven different principles on which the wages will be fixed and the dearness allowance determined. In order to avoid that anomaly, it was thought proper that the whole Bank question should be dealt with by one Tribunal which will go round the country, see the conditions of the workers and will lay down certain basic uniform principles on which their wages, dearness allowance, conditions of service, hours of work, etc. will be fixed.

Shri R. K. Sidhva: Leave, pension, provident fund, etc.

The Honourable Shri Jagjivan Ram: There are 38 issues. I do not want to tire the hon. Members of this House by reading those issues. Those issues are very wide and practically everything is covered by them. When we say that uniformity should be enforced, we certainly do not mean that the employees will get the same salary in Madras and Shillong. Certainly we do mean that some uniform principles should be followed in fixing salaries either in Madras, or in Shillong or in Simla. Sir, whenever there is any subject transferred from the provincial list to the Central List, there is some protest and there is bound to be. Similarly in this case also, some voices have been raised here and I am not surprised at that. But we have to see that whether in the ultimate analysis, the result has been beneficial to the economy of the country or not. I will leave it at that. Personally I feel, Sir, that this step was necessitated more in the interests of the employees than in the interests of the employers and also more in the interests of the economy of the country than anything else. And when the economy of the country comes into the picture, the interests of the employers and of the employees, both, will have to be subordinated to the interests of the economy of the country. With these words, Sir, I commend the motion for the acceptance of the House.

Shri R. K. Sidhva: What are his views, Sir, about one uniform Act?

The Honourable Shri Jagjivan Ram: It is desirable and, as has been pointed out by Mr. Harihar Nath Shastri, I am proposing to bring in comprehensive legislation either in this session or the next one.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Why not abolish the provinces altogether? The whole thing has become a farce.

The Honourable Shri N. V. Gadgil: It is worth considering.

Mr. Chairman: The question is:

"That the Bill to provide for the adjudication of industrial disputes concerning certain banking and insurance companies, be taken into consideration."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 and 4 were added to the Bill.

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

"That in sub-clause (1) of clause 5 of the Bill, for the words 'shall have abated', occurring at the end, the words 'shall abate' be substituted."

It says:

"Pending before any tribunal or other authority, on the aforesaid date such reference shall be deemed to have been withdrawn and all such proceedings shall have abated."

The best way of putting it would be "all such proceedings shall abate". I do not see the force of this grammatical acrobatics "shall have abated". I do not see how this draftsmanship can be allowed to stand. It should be either "shall be deemed to have abated" or "shall abate".

The Honourable Shri Jagjivan Ram: I do not accept the amendment.

Mr. Chairman: Do you press your amendment?

Mr. Naziruddin Ahmad: Yes, Sir.

Mr. Chairman: The question is:

"That in sub-clause (1) of clause 5 of the Bill, for the words 'shall have abated', occurring at the end, the words 'shall abate' be substituted".

The motion was negatived.

Mr. Chairman: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Mr. Chairman: There is an amendment by Mr. Lal Mohan Pati, Mr. Damodar Swarup, Mr. Lakshminarayan Sahu and Mr. Chaliha to clause 6.

श्री लक्ष्मीनारायण साहू : मान्यवर वाचस्पति जी, मैं क्लॉज ६ में वह संशोधन लाना चाहता हूँ :

"That in sub-clause (1) of clause 6 of the Bill, after the words 'the Central Government may' occurring in line five, the words 'if an appeal is preferred against the said decision' be inserted."

इसको जोर देने का मतलब यह है कि सेंट्रल गवर्नमेण्ट अभी तो पावर (Power) ले लेती है और प्राविन्स को एक दम नालायक बना देती ।

अग्नरेबिल श्री जगजीवन राम : कभी नहीं, कभी नहीं ।

श्री लक्ष्मीनारायण साहू : थम मन्त्री जी ने कहा कि उनके ऊपर इतना काम बढ़ जाता है कि शायद वह इतना भार ले सकेंगे या नहीं । मैं कहता हूँ उनके ऊपर इतना भार और बोझ हो जाता है कि वह उसको उठा सकेंगे या नहीं, इसमें भी जरा डर है । इस लिये मैं चाहता हूँ कि प्राविन्सों से यह चीज छीन लेना ठीक नहीं है

[श्री लक्ष्मीनारायण साहू]

मैं देखता हूँ कि एक आर्डिनेन्स बना दिया जाता है और फिर बाद को उसको एक दम जल्दी से कानून बना दिया जाता है। यह बात मेरी समझ में नहीं आती। आर्डिनेन्स तो जब किसी वक्त में अमु, विधा होती है तब लागू किया जाता है। यह चीज तो थोड़े समय के लिये होती है मगर उसको लक्ष्य बना कर उसको कानून बना दिया जाता है, यह ठीक नहीं होगा। लेकिन मैं देखता हूँ कि ऐसा होता है।

इन्श्योरेन्स कम्पनीज (Insurance companies) के बारे में एक सुविधा होती है इस लिये प्रान्त उसको लेना चाहते हैं और इस बारे में मैं कह सकता हूँ कि इन्श्योरेन्स कम्पनीज को ऐसा कर देना चाहिये कि हर प्रान्त में जो इन्श्योरेन्स कम्पनीज हैं वह प्रान्त में ही काम करेंगे तो अच्छा है। दूसरे आदमियों का ग्रास लेने से गड़बड़ी पैदा होगी। यह ठीक है कि जैसा कि रोहनी कुमार चौध रीजी ने कहा कि हर प्रान्त में जो श्रम की अवस्था है, जितनी कम्पनियाँ वहाँ चलती हैं उसको ठीक करना सरल नहीं है। उन सबकी अवस्था देख कर केन्द्रीय सरकार सब ठीक कर लेंगी, इस बात का बहुत कम विश्वास होता है। ऐसा करने से क्या फायदा होगा। जो बड़े बड़े प्रान्त हैं उनका ठीक है लेकिन जो छोटे छोटे प्रान्त हैं उनमें असुविधा होगी। तो मैं श्रम मन्त्री जी से कहता हूँ कि मेरा यह सशोधन ग्रहण करके इस असुविधा को दूर कर देंगे और सोच समझकर इसके बारे में फैसला करेंगे। इसलिये मैं इसके बारे में ज्यादा नहीं कहना चाहता हूँ।

मैं इतना कहना चाहता हूँ कि कम से कम इसमें यह जोड़ दिया जाय :

"If an appeal is preferred against the said decision."

(English translation of the above speech).

Shri Lakshminaryan Sahu (Orissa: General): Sir, I move:

"That in sub-clause (1) of clause 6 of the Bill, after the words 'the Central Government may' occurring in line five, the words 'if an appeal is preferred against the said decision' be inserted."

I wish to emphasise this point for the reason that the Central Government assumes power and categorically brands the Provinces to be worthless.

The Honourable Shri Jagjivan Ram: Never, never.

Shri Lakshminarayan Sahu: The hon. Minister of Labour has just now said that they get so much overburdened with work that it is doubtful if they would be able to shoulder the added responsibility or not. I say that they do get so much overburdened with work that it is apprehended if they would be able to shoulder the added responsibility or not. Therefore I wish that it is not proper to take away this responsibility from the Provinces. I see that a certain ordinance is issued and after a very short time it is suddenly turned into a law. I am not able to follow this procedure. Ordinances are generally promulgated in special circumstances. Ordinances are meant for short periods, but it is not proper when a law is passed on the basis of the same ordinance. But I see that such procedure is being adopted.

The Insurance Companies offer some advantages and so the Provinces want to take them over. In this connection I can say that it would be better if it is made obligatory for the Insurance Companies to do business in their respective Provinces only. Usurpation of other's share will naturally cause a lot of confusion. As Shri Rohini Kumar Chaudhuri has said it is not easy to set right the labour conditions prevailing in the Provinces or to improve the state of affairs of the companies operating therein, and I very much doubt if the Central Government would be able to set the matters right. What benefit will accrue by doing so? This may be quite good for the bigger Provinces but difficulties will have to be faced in the smaller Provinces. I hope that by accepting this amendment the hon. Minister of Labour would be able to eliminate all these difficulties and so he should pass judgment after carefully considering over the matter. I do not wish to say more on this point.

I wish to say that at least the words, 'If an appeal is preferred against the said decision', be inserted in the clause.

Mr. Chairman: Amendment moved:

"That in sub-clause (1) of clause 6 of the Bill, after the words 'the Central Government may' occurring in line five, the words 'if an appeal is preferred against the said decision' be inserted."

The Honourable Shri Jagjivan Ram: Sir, I may inform hon. Members that under the Industrial Disputes Act as it exists at present there is no provision for any appeal. Moreover, the power that we propose to take under section 6 is practically not to be utilised. It existed in the Ordinance. At that time it was thought that it might be necessary in certain cases to use this power but at present practically all the awards by the provincial governments have been enforced and those which were to be reviewed are being reviewed by the tribunal. I think the amendment of my hon. friend Mr. Sahu does not fit in at all in the framework of the Industrial Disputes Act and therefore I am not prepared to accept it.

Mr. Chairman: The question is:

"That in sub-clause (1) of clause 6 of the Bill, after the words 'the Central Government may' occurring in line five, the words 'if an appeal is preferred against the said decision' be inserted."

The motion was negatived.

Mr. Chairman: The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7 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 Jagjivan Ram: Sir, I move:

"That the Bill be passed."

Mr. Chairman: Motion moved:

"That the Bill be passed."

Shri Harihar Nath Shastri: Sir, there were a few words which emerged out of the speeches made just now during the consideration stage of the Bill. Let me assure the hon. Minister that I do not dispute the motive behind the

[Shri Harihar Nath Shastri]

Government in promulgating the ordinance. I do feel, as I did even then, that it was conceived by the hon. Minister in the interests of the workers and nothing short of the interests of the workers could be expected from the hon. Shri Jagjivan Ram. I take this opportunity to assure him and to express my belief that the manner in which the hon. Minister has handled the labour portfolio of this country has done credit not only to him but it has immensely enhanced the prestige of the Government as a whole.

I want to say one thing more. I am not against any Central Act being passed. Mr. Sidhva has misunderstood me if he meant to say that.

Shri R. K. Sidhva: I did not misunderstand him. He deliberately said that when the Central Act comes up he will reserve his remarks. He was not in favour of it and said that he would reserve his remarks more elaborately to a later occasion.

Shri Harihar Nath Shastri: That was in regard to a particular point.

Shri R. K. Sidhva: I am glad you want a Central Act.

Shri Harihar Nath Shastri: What I was against in the ordinance, which I want to express at this moment, was that the ordinance made a provision that all awards or disputes pending before any tribunal on which any award was going to be pronounced would be annulled and they would have no force. I think that there is full justification to institute an enquiry into the working conditions of an important industry like banking and it was up to the Government to set up a tribunal or set up a committee of enquiry. In no enquiry committee I have come across in the last 24 years since I have been in the Trade Union Movement have I seen a procedure, according to which any action taken by any provincial Government in the interests of the employees has been set aside. That is all that I objected to and I feel that the Government without introducing that particular provision could have proceeded with the setting up of the tribunal and instituting an enquiry on an all-India basis, which would have resulted in the all round improvement of the banking concerns and in the conditions of the employees too. That is the only point that I objected to and I thought, and I do still hold, that it would have been proper if those Governments which had undertaken any enquiry or which had any disputes in their hands had been allowed to proceed with them and allowed to enforce the awards. That is all that I have to say.

Shri Prabhu Dayal Himatsingka (West Bengal: General): Sir, I would not have risen to speak but for the remarks that were made by my hon. friend Pandit Harihar Nath Shastri. We all know the circumstances under which this Ordinance was promulgated. There were certain cases pending in the United Provinces and certain awards made affected certain banks in such a manner that working became impossible for them. The awards in favour of certain employees were that they were to be paid so much. In certain Provinces they were getting much more while in certain others they were getting much less. Confusion was created on account of the award. After all, the employees of Banks are employees whether they are working in one Province or in another. Similar difficulties were going to be created in other places. Therefore in the interests of all concerned and in the interest of the proper working of institutions which are of an all-India character, and which would be very much affected if different awards are made in different Provinces, it became absolutely necessary for the Government of India, in the interests of labour and in the interests of employers, to take upon themselves to legislate in a manner which would take into consideration all factors and which would enable an award being given which will be applicable to all the employees in

a uniform manner. That was the justification for it. And I congratulate the hon. Minister of Labour for having brought in this legislation.

The Honourable Shri Jagjivan Ram: Sir, I just want to say a word. There may be some misapprehension that as a result of the promulgation of this Ordinance many awards were abated. Not a single award has been abated. The only award that was abated was the B. B. Singh award which was modified by Justice Bind Basni Prasad in the United Provinces. Even in that case I am surprised to hear from my friend Mr. Harihar Nath Shastri that the whole of the award was abated. As he is aware, there were more than one hundred issues that were adjudicated upon by Mr. Justice Bind Basni Prasad. Out of 112 issues—I am speaking from memory—on which the award was given, only six or seven items were abated to be reviewed upon by the Central Government. All the rest were left to the U.P. Government to be enforced. That is the only information I wanted to give to the House. No other award in any other Province abated or has been referred to the Central Tribunal for review as a result of this Ordinance.

Sjt. Rohini Kumar Chaudhuri: On a point of information, may I draw the attention of the hon. Minister to clause 5 by which all the disputes which might have been referred to a tribunal by the Provincial Governments shall be deemed to have been withdrawn and abated after the passing of the Ordinance? And may I ask him whether those disputes which were referred to tribunals before April 1949 are still pending or have they been withdrawn and settled by any tribunals set up by the Government of India?

The Honourable Shri Jagjivan Ram: 'Abating' does not mean pending. Once the proceedings abate there is nothing more pending. As I have said, the disputes in all the banks having branches in more than one Province have been referred to this tribunal—all the issues and all the points of dispute that were pending between the employers and the employees in any of the banks in any part of the country have been referred to this tribunal. So no dispute is pending. All the disputes have been referred to the Central tribunal.

Mr. Chairman: The question is:

"That the Bill be passed."

The motion was adopted.

EXPLOSIVES (TEMPORARY PROVISIONS) BILL

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

"That the Bill to provide for the exemption for a limited period of operations affecting ammunition, explosives or inflammable substances from certain restrictions and for the regulation of those operations, be taken into consideration."

Sir, at this late hour, when the House is in a calm atmosphere, it seems somewhat incongruous that I should ask the House to discuss a Bill which relates to ammunition, explosives and dangerous cargo.

Mr. Naziruddin Ahmad (West Bengal: Muslim): It will ginger us up.

The Honourable Shri N. V. Gadgil: And I hope it will not lead to an explosion due to my friend Mr. Naziruddin Ahmad.

The handling of ammunition, explosives and dangerous cargo at docks is not allowed at major ports under the present rules which are framed under the Indian Explosives Act. During war time it was felt necessary that there

[Shri N. V. Gadgil]

should be a certain relaxation of these rules and that was made possible by the promulgation of certain rules under section 88(1) of the Defence of India Acts. Probably most of the members are aware that later on there was a great explosion in the Bombay dockyard in the year 1944. A Committee was appointed and the recommendations of that Committee were embodied in certain rules that were promulgated under the Defence of India Act. After the war was over, it was necessary for the continuance of such power, and an Ordinance was issued for the continuance of these provisions. That Ordinance expired in the month of March 1947. In March 1947 a Bill incorporating those very provisions was introduced in this House and this House enacted it. That Act came to an end in the month of March 1949 and the present position is that a good deal of ammunition still remains to be destroyed. It is for this purpose that this Bill has been introduced and a motion for its consideration has now been made.

The Bill is exactly a reproduction of the Act of 1947. Nothing new is introduced in it. There is a clear case for having such power inasmuch as a large quantity of ammunition still remains to be destroyed. The only change is that in the Act of 1947 two major ports were contemplated, namely Karachi and Vizagapatam. Obviously Karachi cannot be included now. Therefore the field of operation is now confined to the major port of Vizagapatam.

There should not be any opposition to this Bill. But I find from the Order Paper that certain amendments which are of a verbal character are likely to be moved by my hon. friend Mr. Naziruddin Ahmad. There are two amendments in the name of my hon. friend Mr. Sidhva which relate to compensation. I might inform him that all these operations are done by the Military personnel. If there is any injury or loss of life then all those cases are governed by the rules framed by the Defence Department under their conditions of service. Normally no non-military person is engaged. But if there is such a case then there is the Workmen's Compensation Act to the extent to which it applies. And to the extent to which it does not apply I understand it is the practice of the Defence Department to grant compensation *ex gratia*. But so far, a case of that nature has not occurred. I therefore would like to request my hon. friend Mr. Sidhva not to move or press his amendment because it is hardly relevant and in the second place it is not necessary. Sir, I move.

Shri Suresh Chandra Majumdar (West Bengal: General): May I know why this ammunition should be destroyed at all instead of handling it over to the military for future use?

Mr. Chairman: Motion moved:

"That the Bill to provide for the exemption for a limited period of operation affecting ammunition, explosives or inflammable substances from certain restrictions and for the regulation of those operations, be taken into consideration."

Shri Suresh Chandra Majumdar: Sir, may I know why this ammunition should be destroyed at all?

The Honourable Shri N. V. Gadgil: This aspect of the question was thoroughly gone into and it was found that to turn the ammunition into something of a peaceful character was more expensive, and as time has progressed it has deteriorated so completely and has become so dangerous that the sooner we dump it in the sea the better.

Shri B. K. Sidhva (C.P. and Berar: General): Sir, this Bill is harmless and I welcome it, but there are one or two points which, as the hon. Minister

has stated, require to be clarified. He has touched on the point of compensation, and has referred to the disastrous explosion of Bombay; the Act of 1947 was more or less enacted on account of that explosion. But nothing in that Act provides that any ship bringing ammunition should discharge or load in midstream far from the harbour. That is why I have suggested an amendment to that effect. The cause of the Bombay disaster was that the ammunition was discharged in the harbour as a result of which a number of lives and most of the property around the harbour were destroyed. So, in this case while Government want to destroy this unuseful ammunition, I want to see that it is destroyed in midstream and not near the harbour or in the docks.

Then, my hon. friend the mover stated that compensation would be payable either under the Workmen's Compensation Act or under the orders of the Defence Ministry. The Defence Ministry have no particular Act regarding compensation; they go only by their whims and *ex gratia* they sometimes give very meagre sums where a whole family might have depended on the breadwinner who loses his life and that compensation is not at all sufficient. Therefore, in my amendment I want to make it very clear that in an event of injury without the fault of the person, proper compensation should be paid.

These are the only two points which I desire should be incorporated in the Bill. We had the experience of negligence in the Bombay explosion. Nobody knew that such an explosion would take place. Steamers always used to discharge ammunition at the harbour. As regards compensation, in connection with loss in that explosion, I think there is a conflict between the Port Trust and the Defence authorities with the result that people who suffered did not get sufficient compensation while some of them have not got it at all. The Defence Department said the Port Trust should pay and the Port Trust said that Defence Department should pay. I don't know the ultimate result of that conflict but it went on for more than a year. Therefore, we should see that in destroying such unuseful ammunition we should see that innocent people are not subjected to their wrong actions. Whether my amendment is germane or not, I want to know from the hon. Minister how he is going to protect the lives of people if the ammunition is discharged at the harbour. He has not made it clear; if he states that it is going to be discharged in midstream, I have no objection. We don't want innocent people to suffer because of the negligence of the Port Trust authorities or the Military authorities. At the same time, from the experience we have as regards compensation, I hope my hon. friend who has the interest of the people at heart will certainly accept my amendment and make the provision very clear.

The Honourable Shri N. V. Gadgil: If my hon. friend were to read sub-clause (ii) of clause 2 he will find that when a declaration is made the conditions are laid down in the interests of safety for regulating the loading, unloading, handling, storage or conveyance of ammunition, explosives and inflammable substances to which the declaration relates. For the information of my hon. friend, I may tell him that after the Bombay explosion these rules were made and precautions are being taken. As a matter of fact, quite a large quantity has already been destroyed although quite a large quantity still remains. I may state that dumping is done at a place 250 fathoms deep. That will give my hon. friend some idea as to the distance from the shore where the ammunition is destroyed.

As regards compensation, I will only repeat what I have already stated. All these operations are done by military personnel and in case of injury or loss of life their conditions of service govern such cases. I don't think any person not belonging to the military has ever been engaged on this task, but if he is engaged then the extent to which the Workmen's Compensation

[Shri N. V. Gadgil]

Act applies will apply. Otherwise, the military has always shown that where on account of its fault some personal damage has ensued, such damage has always been made good.

Shri R. K. Sidhva: How many people were affected by the last explosion and how much compensation was paid to them?

The Honourable Shri N. V. Gadgil: How can I give that information now?

Mr. Chairman: The question is:

"That the Bill to provide for the exemption for a limited period of operation affecting ammunition, explosives or inflammable substances from certain restrictions and for the regulation of those operations, be taken into consideration."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 and 4 were added to the Bill.

The Honourable Shri N. V. Gadgil: Sir, I move:

"That in sub-clause (1) of clause 5 of the Bill, for the word 'for' occurring in line three, the word 'by' be substituted."

It is a mere misprint.

Mr. Chairman: The question is:

"That in sub-clause (1) of clause 5 of the Bill, for the word 'for' occurring in line three, the word 'by' be substituted."

The motion was adopted.

Mr. Chairman: 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.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri N. V. Gadgil: Sir, I move:

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

Mr. Chairman: Motion moved:

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

Dr. B. Pattabhi Sitaramayya (Madras: General): Sir, I want to say a few words. This measure is only for the destruction of the ammunition. Why the ammunition should be destroyed is a matter that perhaps does not fall within the province of the hon. Member who has moved the motion. Whether he is moving it on behalf of the Defence Minister or on behalf of his own Department is not known.

The Honourable Shri N. V. Gadgil: The position is that the Ministry of Works, Mines and Power deals with the explosives. The Chief Inspector of Explosives is under this Ministry and the Bill is moved at the instance and request of the Ministry of Defence.

Dr. B. Pattabhi Sitaramayya: I now gather that where the explosives have to be destroyed to no purpose, then it falls within the hon. Member's jurisdiction, while when they are to be used in order to carry on a war, it goes to the Defence Minister. I have lately complained in some other connection that a number of Lancasters were ordered to be destroyed. These were war aeroplanes which are brand new and which have been brought together and which have been stored.

The Honourable Shri Jagjivan Ram (Minister of Labour): But they are not explosives!

Dr. B. Pattabhi Sitaramayya: You do not mean that I cannot argue a case. They are also parts of an explosive mechanism in that they carry explosives. They were war aeroplanes and when a certain intelligent officer looked into the matter it was found that even the brand new parts were not assembled; that they were lying innocently and inoffensively in some corner in Madras, and then it was discovered that the order was absolutely wrong and they have been stored. This is the latest experience in the process of destroying war materials which had been obtained at great expense. Now, the munitions are being destroyed. I think it stands to reason that munitions as they stand do not keep and they become damp squibs. Therefore, they may have to be destroyed. Really when they become damp squibs, they need not be destroyed. If they are live rockets or dynamic things, then they had better be preserved for any contingency of a war which we may presently have. Fortunately the British people when leaving munitions here have also left the conditions and possibilities of war in which we may have to utilise the munitions. Therefore, I do not know whether it is strictly within the province of this Bill or otherwise to consider this point.

Shri R. K. Sidhva: They will explode automatically.

Dr. B. Pattabhi Sitaramayya: They will not. That is entirely a wrong idea. They are not like Mr. Sidhva who explodes automatically. The longer the munitions stand, the less capable of explosion they become. That is the essential factor of munitions. So they cannot explode automatically. The spark must be applied to them. Now, my only point is this. Care must be taken to see that there is no use for them, because it may be to the interest of certain persons to destroy the existing munitions and order new ones, as it may be to the interests of our own country not to depend upon useless material in a time of emergency. I do not know whether it is even relevant to raise this issue, but as the House may not be possessed of the knowledge of such things that are happening in Madras and everywhere in the stores of the Military Department, I just wished to bring this to your notice.

The Honourable Shri N. V. Gadgil: I have noted what the hon. Dr. Pattabhi has said, assuming that it was all relevant.

Mr. Chairman: The question is:

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

The motion was adopted.

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

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Thursday, 8th December, 1949

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-45 A.M.

MINES BILL.

The Honourable Shri Jagjivan Ram (Minister of Labour): Sir, I beg to move for leave to introduce a Bill to amend and consolidate the law relating to the regulation of labour and safety in mines.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to amend and consolidate the law relating to the regulation of labour and safety in mines."

The motion was adopted.

The Honourable Shri Jagjivan Ram: Sir, I introduce the Bill.

Mr. Deputy-Speaker: Before we proceed further, may I request hon. Members to continue to be present in the House? Their presence in the House is of interest and will encourage other people also to speak. So, unless they have got urgent business outside I would request them to continue sitting in the House and take part in the deliberations.

INDIAN RAILWAYS (AMENDMENT) BILL

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

"That the Bill further to amend the Indian Railways Act, 1890, as reported by the Select Committee, be taken into consideration."

Sir, in spite of the dissenting minutes of my friends Dr. Tek Chand and Pandit Thakur Das Bhargava, I hope to be able to convince the House that the Bill is entirely non-contentious and that it is mainly in the interests of the public—the business community as well as the general public.

The Bill is largely procedural. It does not make any difference regarding the existing rights and liabilities of Railways towards the business community or towards the public. The main provisions are two-fold. It seeks to make changes in the procedure regarding the consignment of goods by goods trains. Secondly, it seeks to evolve a procedure in the matter of compensation for victims of Railway accidents.

[Shri K. Santhanam]

At present when goods are consigned, a forwarding note has to be sent. Besides a forwarding note, if goods are inadequately packed or are in a defective condition or if they are despatched in open vehicles of traffic normally carried in covered vehicles and liable to damage or loss when carried in open vehicles, or, animals are booked without paying the percentage charge and excess value which the Railways levy to carry at Railways' risk, or when goods are consigned at owners' risk, besides the forwarding note risk notes of various kinds have to be executed. Except in the matter of sending goods at owner's risk, these risk notes are compulsory. Every consignor who has to send a defectively packed article or other articles mentioned, has to execute this forwarding note of a stereotyped form, and in the case of goods which are being sent at owner's risk—where there are two risks, the Railway's risk and the owner's risk—the consignor in 99 per cent. of the cases chooses to send only at owner's risk because the freight rate is much lower. Therefore, in all these cases it has been found that the execution of these risk notes is a superfluous labour for the Railway staff; and it leads to a lot of harassment of the business community because many of them are illiterate people and when they are asked to bring witnesses to attest the risk notes it is open to the Railway staff to say that they don't know the attesting witnesses and ask them to bring somebody known to the staff, thus resulting in a lot of trouble. The proposal in this Bill is to abolish all these risk notes and insert the liability of those risk notes within the Statute itself.

Now, there are two kinds of liability when the Railways carry goods. One is the ordinary liability of a bailee. If things are delivered in well-packed condition and at Railway's risk, the Railway's liability is that of a bailee. If goods are damaged or lost in transit, the Railway has to prove that it took proper care and that the loss or damage occurred in spite of all its care and owing to causes beyond its control. If it cannot prove that it must pay the compensation for loss or damage. When goods are sent with the risk note the liability is diminished in varying proportions as stated in the risk note. The proposal in the Bill is that these varying liabilities be inserted in the Statute so that no consignor need execute these risk notes, thereby simplifying the entire procedure. The liabilities and rights of both the Railway and of the consignor will continue to remain as they were except in certain minor particulars in which the Select Committee have increased the liability of the Railway and reduced the liability of the consignor. According to the present risk notes, if an article is sent at owner's risk, then the consignor has to prove that the damage occurred owing to the misconduct of the Railway officials. The Select Committee has made it into *negligence* or *misconduct* so that in the future it would be enough for a consignor to prove that the Railways were negligent in dealing with his goods and then he will be eligible for compensation. Similarly, when whole consignments are lost, the original Bill had stated that only if the goods had been delivered in a properly packed condition would the Railway be liable to pay compensation, or that the Railway should prove that the loss occurred for reasons beyond its control. The Select Committee has increased the liability of the Railway and has said that if whole consignments are lost even though the goods had been delivered in a defective condition, the Railway has to prove that the loss occurred for reasons beyond its control. In these two matters the liability of the Railway has been increased as a result of the scrutiny of the Bill by the Select Committee. In all other respects, the old rights and liabilities continue to be the same except that the execution of various kinds of risk notes involving thousands and thousands of useless documents executed every day is being dispensed with.

The second important matter is in relation to procedure in dealing with compensation to claims due to Railway accidents. Up to 1949, the Railways

were not liable for accidents unless it could be proved that the accident occurred owing to the negligence or misconduct or failure of duty of the Railway Administration or the officials in charge of that Administration. Therefore, even though a thousand people may die no one may be able to get any kind of compensation. Some of us protested in the old Legislature against this state of affairs and said that when an accident occurred, whatever the reasons the poor people travelling in the Railway should have some compensation. In 1948 the Legislature inserted Section 82A in the Railways Act, by which whenever there is a Railway accident anyone who incurs any kind of loss either by death or by injury will be entitled to compensation. At the same time, the Legislature limited the compensation to a maximum of Rs. 10,000/-. But unfortunately, when this Section was inserted there was no procedure laid down for prompt payment of compensation. Therefore, at present whenever there is an accident, though the people who incur loss have a right of compensation, they have to do it either by negotiation with the Railway or by going to a Court of law, neither of which is satisfactory. This Bill proposes that compensation commissioners will be appointed in all parts of the country and where there is a big accident special commissioners will be appointed. These commissioners will call for all particulars and award compensation which will be binding on the Railway. I suggest that this is a most salutary provision which ought to be enacted into law as early as possible.

I may now say a few words regarding the minutes of dissent of my hon. friends Pandit Thakur Das Bhargava and Dr. Bakshi Tek Chand. In regard to compensation, both of them want that besides the general right to compensation irrespective of the cause of accident, the old ordinary liability to get unlimited compensation whenever the accident is proved to have been due to negligence or failure of duty on the part of Railways should be preserved. This matter came up when these provisions were considered in connection with the Select Committee on the Bill which enacted the Railway Rates Tribunal. This also formed part of the Bill. I was also a member of the Select Committee, and then it was decided that these provisions should be reconsidered in relation to this liability. We undertook a careful re-examination of this question and the Railways came to the conclusion that it is not possible to have a two-fold liability, that it will lead to various complications, if the Railways should have the old liability of paying unlimited compensation when it is due to negligence and they should have a liability to pay irrespective of the cause of accident to all people limited compensation. In the last six years, there has been no claim for compensation in excess of Rs. 10,000. Therefore, actual experience has shown that this Rs. 10,000 is a reasonable limit under the present economic conditions. Then there are also further complications if we have a two-fold liability. Suppose somebody is dead and he has two sons. One may go to the Commissioner for the summary process and try to get compensation; another may go to a court of law, and between the two the Railways will be in great difficulty. It will lead to all kinds of complications, confusion and uncertainty. Therefore, the Select Committee wisely decided that the present rule that there should be only one system of compensation and it should apply to all persons and that it should be limited to Rs. 10,000 and should be awarded by the Commissioners. But the Select Committee has made another change. It has made a provision that the compensation as awarded by the Commissioner should be liable to an appeal. Under these circumstances, I suggest that it is not possible for us to extend the liability. Even if we want to do it, this will not be the proper Bill, because Section 82-A which provides for the limitation—we are assured by our legal advisers—limits the liability of compensation to Rs. 10,000 in all cases. Therefore, unless we bring a separate Bill to change Section 82-A, it cannot be done. What all can be done is to drop again this procedure for Claims Commissioners and then

[Shri K. Santhanam]

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I may now say a few words regarding the minutes of dissent of my hon. friends Pandit Thakur Das Bhargava and Dr. Bakshi Tek Chand. In regard to compensation both of them want that besides the general right to compensation irrespective of the cause of accident, the old ordinary liability to get unlimited compensation whenever the accident is proved to have been due to negligence or failure of duty on the part of Railways should be preserved. This matter came up when these provisions were considered in connection with the Select Committee on the Bill which enacted the Railway Rates Tribunal. This also formed part of the Bill. I was also a member of the Select Committee, and then it was decided that these provisions should be reconsidered in relation to this liability. We undertook a careful re-examination of this question and the Railways came to the conclusion that it is not possible to have a two-fold liability, that it will lead to various complications, if the Railways should have the old liability of paying unlimited compensation when it is due to negligence and they should have a liability to pay irrespective of the cause of accident to all people limited compensation. In the last six years, there has been no claim for compensation in excess of Rs. 10,000. Therefore, actual experience has shown that this Rs. 10,000 is a reasonable limit under the present economic conditions. Then there are also further complications if we have a two-fold liability. Suppose somebody is dead and he has two sons. One may go to the Commissioner for the summary process and try to get compensation; another may go to a court of law, and between the two the Railways will be in great difficulty. It will lead to all kinds of complications, confusion and uncertainty. Therefore, the Select Committee wisely decided that the present rule that there should be only one system of compensation and it should apply to all persons and that it should be limited to Rs. 10,000 and should be awarded by the Commissioners. But the Select Committee has made another change. It has made a provision that the compensation as awarded by the Commissioner should be liable to an appeal. Under these circumstances, I suggest that it is not possible for us to extend the liability. Even if we want to do it, this will not be the proper Bill, because Section 82-A which provides for the limitation—we are assured by our legal advisers—limits the liability of compensation to Rs. 10,000 in all cases. Therefore, unless we bring a separate Bill to change Section 82-A, it cannot be done. What all can be done is to drop again this procedure for Claims Commissioners and then

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At present when goods are consigned, a forwarding note has to be sent. Besides a forwarding note, if goods are inadequately packed or are in a defective condition or if they are despatched in open vehicles of traffic normally carried in covered vehicles and liable to damage or loss when carried in open vehicles, or, animals are booked without paying the percentage charge and excess value which the Railways levy to carry at Railways' risk, or when goods are consigned at owners' risk, besides the forwarding note risk notes of various kinds have to be executed. Except in the matter of sending goods at owner's risk, these risk notes are compulsory. Every consignor who has to send a defectively packed article or other articles mentioned, has to execute this forwarding note of a stereotyped form, and in the case of goods which are being sent at owner's risk—where there are two risks, the Railway's risk and the owner's risk—the consignor in 99 per cent. of the cases chooses to send only at owner's risk because the freight rate is much lower. Therefore, in all these cases it has been found that the execution of these risk notes is a superfluous labour for the Railway staff; and it leads to a lot of harassment of the business community because many of them are illiterate people and when they are asked to bring witnesses to attest the risk notes it is open to the Railway staff to say that they don't know the attesting witnesses and ask them to bring somebody known to the staff, thus resulting in a lot of trouble. The proposal in this Bill is to abolish all these risk notes and insert the liability of those risk notes within the Statute itself.

Now, there are two kinds of liability when the Railways carry goods. One is the ordinary liability of a bailee. If things are delivered in well-packed condition and at Railway's risk, the Railway's liability is that of a bailee. If goods are damaged or lost in transit, the Railway has to prove that it took proper care and that the loss or damage occurred in spite of all its care and owing to causes beyond its control. If it cannot prove that it must pay the compensation for loss or damage. When goods are sent with the risk note the liability is diminished in varying proportions as stated in the risk note. The proposal in the Bill is that these varying liabilities be inserted in the Statute so that no consignor need execute these risk notes, thereby simplifying the entire procedure. The liabilities and rights of both the Railway and of the consignor will continue to remain as they were except in certain minor particulars in which the Select Committee have increased the liability of the Railway and reduced the liability of the consignor. According to the present risk notes, if an article is sent at owner's risk, then the consignor has to prove that the damage occurred owing to the misconduct of the Railway officials. The Select Committee has made it into *negligence* or misconduct so that in the future it would be enough for a consignor to prove that the Railways were negligent in dealing with his goods and then he will be eligible for compensation. Similarly, when whole consignments are lost, the original Bill had stated that only if the goods had been delivered in a properly packed condition would the Railway be liable to pay compensation, or that the Railway should prove that the loss occurred for reasons beyond its control. The Select Committee has increased the liability of the Railway and has said that if whole consignments are lost even though the goods had been delivered in a defective condition, the Railway has to prove that the loss occurred for reasons beyond its control. In these two matters the liability of the Railway has been increased as a result of the scrutiny of the Bill by the Select Committee. In all other respects, the old rights and liabilities continue to be the same except that the execution of various kinds of risk notes involving thousands and thousands of useless documents, executed every day is being dispensed with.

The second important matter is in relation to procedure in dealing with compensation to claims due to Railway accidents. Up to 1949, the Railways

were not liable for accidents unless it could be proved that the accident occurred, owing to the negligence or misconduct or failure of duty of the Railway Administration or the officials in charge of that Administration. Therefore, even though a thousand people may die no one may be able to get any kind of compensation. Some of us protested in the old Legislature against this state of affairs and said that when an accident occurred, whatever the reasons the poor people travelling in the Railway should have some compensation. In 1943 the Legislature inserted Section 82A in the Railways Act, by which whenever there is a Railway accident anyone who incurs any kind of loss either by death or by injury will be entitled to compensation. At the same time, the Legislature limited the compensation to a maximum of Rs. 10,000/-. But unfortunately, when this Section was inserted there was no procedure laid down for prompt payment of compensation. Therefore, at present whenever there is an accident, though the people who incur loss have a right of compensation, they have to do it either by negotiation with the Railway or by going to a Court of law, neither of which is satisfactory. This Bill proposes that compensation commissioners will be appointed in all parts of the country and where there is a big accident special commissioners will be appointed. These commissioners will call for all particulars and award compensation which will be binding on the Railway. I suggest that this is a most salutary provision which ought to be enacted into law as early as possible.

I may now say a few words regarding the minutes of dissent of my hon. friends Pandit Thakur Das Bhargava and Dr. Bakshi Tek Chand. In regard to compensation, both of them want that besides the general right to compensation irrespective of the cause of accident, the old ordinary liability to get unlimited compensation whenever the accident is proved to have been due to negligence or failure of duty on the part of Railways should be preserved. This matter came up when these provisions were considered in connection with the Select Committee on the Bill which enacted the Railway Rates Tribunal. This also formed part of the Bill. I was also a member of the Select Committee, and then it was decided that these provisions should be reconsidered in relation to this liability. We undertook a careful re-examination of this question and the Railways came to the conclusion that it is not possible to have a two-fold liability, that it will lead to various complications, if the Railways should have the old liability of paying unlimited compensation when it is due to negligence and they should have a liability to pay irrespective of the cause of accident to all people limited compensation. In the last six years, there has been no claim for compensation in excess of Rs. 10,000. Therefore, actual experience has shown that this Rs. 10,000 is a reasonable limit under the present economic conditions. Then there are also further complications if we have a two-fold liability. Suppose somebody is dead and he has two sons. One may go to the Commissioner for the summary process and try to get compensation; another may go to a court of law, and between the two the Railways will be in great difficulty. It will lead to all kinds of complications, confusion and uncertainty. Therefore, the Select Committee wisely decided that the present rule that there should be only one system of compensation and it should apply to all persons and that it should be limited to Rs. 10,000 and should be awarded by the Commissioners. But the Select Committee has made another change. It has made a provision that the compensation as awarded by the Commissioner should be liable to an appeal. Under these circumstances, I suggest that it is not possible for us to extend the liability. Even if we want to do it, this will not be the proper Bill, because Section 82-A which provides for the limitation—we are assured by our legal advisers—limits the liability of compensation to Rs. 10,000 in all cases. Therefore, unless we bring a separate Bill to change Section 82-A, it cannot be done. What all can be done is to drop again this procedure for Claims Commissioners and then

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leave it to the future when the Railways Act is to be amended. I do not think it is a satisfactory procedure. In a recent accident, for instance, we were not able to settle the compensation claims quickly because no machinery was there. The installation of this machinery as quickly as possible is in the interests of those poor people who may meet with accidents.

One other point which Pandit Thakur Das Bhargava has tried to make is that the railway liability in the case of owner's risk and other consignments on risk-notes should be extended to something near that of a bailee. I think it is not possible. If we are to take same liability for consignments on railway risk and also on consignments on owner's risk, there is no reason why the Railways should do anything on owner's risk. It will lead to the abolition of the owner's risk and the reduced rates on owner's risk. I personally think that it will not be a bad thing for Railways as such. Railways will be getting some more crores of revenue. On the other hand, the business community will be put to great hardship. They are now getting reduced rates on account of owner's risk and though the Railways carry less liability it is found in practice that 99 and odd percentage of articles reach their destination safely. The mercantile community thinks it is a risk worth taking in view of the reduced

12 Noon. rates. Therefore, abolition of the owner's risk will not be advantageous to the business community. Again, any increase of Railway liability in this matter will mean that the Railways will always insist on things being properly packed and they will refuse to take goods which are defectively packed, in which case many people, particularly those in rural areas who have not got up to date machinery for packing, will be put to great difficulties. Therefore, it is in the interests of the business community to keep alive the difference between railway risk and owner's risk and let the present liabilities remain.

Dr. Tek Chand has suggested that our idea of abolishing these risk notes is not quite sound. We have consulted the business community and there is agreement that it will be helpful to them to take away this present cumbersome procedure of executing risk notes for everything. It only causes a great deal of harassment and difficulty for them, and for the Railways themselves it means that their staff have to take and get executed thousands and thousands of useless forms which serve no useful purpose whatsoever, as the liabilities are the same all over the year and all over the country. Therefore, it is a cumbersome procedure which has been handed down from the past and which it is certainly useful to simplify.

Shri Jaspat Roy Kapoor (U.P.: General): Will the hon. Minister be pleased to state which particular business community's representatives have been consulted?

The Honourable Shri K. Santhanam: The Indian Federation of Chambers of Commerce was consulted. This matter has been under discussion for the past three years and more and all these proposals were circulated to the various Chambers of Commerce in different parts of the country. So far many of them have supported and no one is in opposition to them. This is a thing generally welcomed. It was put before the Standing Railway Finance Committee. That Committee also supported it, but it made one stipulation that in order to keep up the difference between the railway risk and the owner's risk, whenever goods are sent on railway risk, a special certificate should be given, so that it may be produced when necessary for purposes of compensation. We have incorporated that suggestion in the Bill and therefore though an article may be sent with a single forwarding note, the owner will say there whether it is railway risk or owner's risk and if he says it is railway risk a

special certificate will be handed over to him saying that his consignment was sent by railway risk. Besides, the actual freight paid will show whether he has sent it by owner's risk or railway risk. Therefore, there is no difficulty about confusing these risks. The actual risk on which the consignment was sent will be clear from the forwarding note and also from the freight and the certificate given to him.

For all these reasons I suggest that the Bill is purely non-contentious and beneficial and should be passed into law. With respect to particular points that may be raised during discussion, I shall answer them when the consideration is taken up clause by clause. Sir, I commend the motion to the acceptance of the House.

Shri Suresh Chandra Majumdar (West Bengal: General): Will it be open to the sender of the goods to choose whether it should be sent on railway risk or owner's risk?

The Honourable Shri K. Santhanam: Yes, Sir. There are certain articles in which there is no owner's risk, which a person has to send only under railway risk, but for other articles there are both risks and where for any article there are both risks, it is always entirely optional on the part of the sender to choose either the railway risk or the owner's risk.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Indian Railways Act, 1890, as reported by the Select Committee, be taken into consideration."

Pandit Thakur Das Bhargava (East Punjab: General): Sir, I welcome the provision in this Bill about the institution of Claims Commissioners and the expeditious method of settling the claims of those people who suffer injuries or death on account of accidents on the Railways. There is no doubt about the fact that these provisions are very salutary in their effect and will benefit the general public.

So far as the question of compensation by way of social insurance is concerned, this has already been enacted in 1942-43 when Section 82A was incorporated. As far as that aspect of the case is concerned, I do not think there is any reason why we should confuse the two issues. When in 1942-43 this question was taken up it was not even incidentally signified that this right of the ordinary citizen to claim adequate compensation in a court of law will be taken away by that provision. I may in this connection refer the House to the speeches made at that time—the speeches of Mr. Lalchand Navabai and Sir Cowasji Jehangir. It will appear from a perusal of those speeches that when Section 82A was incorporated in the Railways Act, there was no case made out for taking away the rights of the ordinary citizen, so far as he was entitled to receive compensation on account of death or injury.

Now I do not know wherefrom my hon. friend the Mover of this Bill got the impression that when Section 82A was incorporated in the Act in 1942 this right was taken away. I join issue with him on this matter and I beg to assure this House that as a matter of fact this right was never taken away at that time.

Now when this Bill is being enacted we have got proposed Sections 82F and 82H. In regard to Section 82F I do not think that even that section takes away this right, because sub-clause (5) of this Section reads:

"Subject to the decision of the High Court in cases in which an appeal is preferred under sub-section (1), the decision of the Claims Commissioner on any question referred to in sub-section (1) shall be final and shall not be called in question in any Court."

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Sub-clause (1) of 82F reads:

"Any question as to the liability of the railway administration to pay compensation under section 82A, or as to the amount thereof, or as to the person to whom such compensation is payable, shall be decided by the Claims Commissioner."

Supposing an aggrieved person does not prefer a claim before the Claims Commissioner. I do not know whether he will be entitled to have the right to take his case to a law court and get adequate compensation. But when we refer to proposed section 82H we find certain rights are specified. By implication it means that such of the rights as are not saved may be deemed to have been taken away. I have, therefore, sent an amendment to proposed section 82H so that these rights may be saved.

Now, Sir, I agree with the hon. the Mover of this Bill that this provision 82A is a very salutary one and in all cases such compensation should be given by way of social insurance. This has been the stand of the hon. the Mover since a very long time. I have read his speeches of 1939, which are to the same effect—and I congratulate him on the success that he has attained while he has become a Minister of the Government. He has not only supported that measure, but has at the same time made that measure very salutary and wholesome, in so far as he has succeeded in providing a ready remedy for giving compensation. But at the same time I do not agree with him in his view that the common law right which has been enjoyed for more than half a century by the citizens of this country should be taken away in this manner. Because after all the remedy provided in this Bill differs materially from the common law remedy which the citizen has been enjoying for the last more than fifty years.

In the first place, Sir, the limitation is changed. The limitation is only three months in proposed section 82C and the procedure is summary and the limit is 10,000; whereas, according to the present law the limitation period is one year, the remedy is a regular suit and the amount of compensation may be more than 10,000. There is no reason whatsoever that the rights which have been enjoyed by the citizens of India for such a long time should be taken away in this matter. There is no inter-dependence between the two provisions; both the provisions are not mutually destructive. One can exist along with the other, because if a person chooses to have recourse to a law suit he can be allowed to do so. I am very much opposed to this right being taken away in this form.

Sir, now I come to the other question—the question of the amendments of sections 74A to 74D contained in clause 10. The present system, which is based on section 72 of the Indian Railways Act, is now sought to be amended. In regard to section 72 it is clear that the responsibility of the railway administration for the loss, destruction, etc., of the goods carried shall be the same as that of a public carrier under sections 151 and 152 of the Indian Contract Act. Now, Sir, if you refer to sections 151 and 152 of the Contract Act it will be clear that there is no difference between an ordinary carrier and the railway and the amount of care and circumspection to be exercised by the railways is the same as that of a man of ordinary prudence under similar circumstances. Section 151 of the Indian Contract Act reads:

"In all cases of bailment the bailee is bound to take as much care of the goods bailed to him as a man of ordinary prudence would, under similar circumstances, take of his own goods of the same bulk, quality and value as the goods bailed."

My humble submission is that this responsibility of the bailee should not be tampered with. It is an incident of the ordinary contract and though the Railway Act.....

The Honourable Shri K. Santhanam: May I point out to my hon. friend that we have not changed Section 72 (1) and it is only Section 72(2) relating to limitation of responsibility that we are seeking to amend.

Pandit Thakur Das Bhargava: I am coming to that. If you make a change in section 72(2) then you can certainly have a change in section 72(1) also, because these two sections are somewhat ancillary to each other. Section 72(2) says:

"An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void, unless it—

- (a) is in writing signed by or on behalf of the person sending or delivering to the railway administration the animals or goods, and
- (b) is otherwise in a form approved by the Governor General in Council."

My humble submission is that though this provision gives authority to the Railways to limit their responsibility by an agreement, those who enact such legislation should see that the responsibility is not destroyed entirely. These provisions which you are now enacting substantially give you immunity from any sort of responsibility.

Sjt. Rohini Kumar Chaudhuri (Assam: General): May I ask whether it is possible for anybody to send things in a leaky tin and then expect the full quantity at the delivery station?

Pandit Thakur Das Bhargava: I have no quarrel with section 72(2). After all the law gives them the right and they may curtail the responsibility if there is an agreement in writing and the form is approved by the Governor General in Council. This was the original proposal. Now section 72(2) is being changed. They want that ordinarily the goods may be sent at the owner's risk and in a few cases only the responsibility of the Railway may remain as it ought to be under section 72(1) of the Railways Act. According to the present practice whenever a person happens to book his goods for carriage the Railways take advantage of getting a risk note signed by him in the presence of witnesses almost mechanically. The various forms of risk note have been approved by the Governor General in Council. When a person comes to the Railway Station and sends certain goods he does not stand on the same equal footing with the Railways and when he goes there he is very anxious to see his goods sent, he wants to put the goods on the railway train and wants that the goods are sent away. But the Railways are in a dominant position and they are also the monopolists for carriage of goods.

The Railways can refuse to take the goods as my hon. friend just threatened, the business community may be threatened and the business community are in the hollow of the hand of the Railways; they can dictate any terms to them and whenever a person is anxious to send goods through the Railway he is confronted with the question whether the goods will be sent or not and when he is in such a helpless state, I do not see how he can resist the demand of the Railways. He shall have to execute the risk note. Now the change to be made is that even the Station-Master or the goods clerk need not say anything to him. The forwarding note will have an implicit clause and it is at owner's risk, unless and until he chooses to see to it that the railway risk note is executed and secures the certificate. The change now sought to be made in section 74C is:

"(1) When any animals or goods are tendered to a railway administration for carriage by railway and the railway administration provides for the carriage of such animals or goods either at the ordinary tariff rate (in this Act referred to as the railway risk rate) or in the alternative at a special reduced rate (in this Act referred to as the owner's risk rate), the animals or goods shall be deemed to have been tendered to be carried at owner's risk rate, unless the sender or his agent elects in writing to pay the railway risk rate."

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(2) Where the sender or his agent elects in writing to pay the railway risk rate under sub-section (1), the railway administration shall issue a certificate to the consignor to that effect."

Thus ordinarily every person shall be asked to sign the owner's risk note without his attention being called to the fact that he is running a risk, that is the position, Sir.

This is not all. When we look at the sections which are sought to be incorporated in this Bill you will be pleased to see that every effort has been made to diminish the responsibility of the Railways.

Now I come to the question put by my hon. friend, Mr. Rohini Kumar Chaudhuri. Proposed section 74A says:

"(1) When any goods tendered to a railway administration for carriage by railway—

(a) are in a defective condition as a consequence of which they are liable to deterioration, leakage, wastage or damage in transit, or

(b) are either defectively packed or packed in a manner not in accordance with the general or special order, if any, issued under sub-section (2) and, as a result of such defective or improper packing, are liable to leakage, wastage or damage in transit,

and the fact of such condition or defective or improper packing has been recorded by the sender or his agent in the forwarding note, the railway administration shall not be responsible for any deterioration, leakage, wastage or damage, or for the condition in which such goods are available for delivery at destination, except upon proof of negligence or misconduct on the part of the railway administration or of any of its servants."

If the goods are in a defective condition or they are not rightly packed, the direct result which will flow from such a condition or defective packing will be that some of them may have deteriorated or wasted or there may be leakage. As a direct result of such a bad condition or defective packing certainly the consignors are responsible for that. Supposing the Railway administration by their misconduct or negligence bring about a state or a condition in those goods which is not direct result of the defective nature or defective packing who will be responsible? The natural thing is that when a thing is given to be under my possession and I have to give it at a certain stage, then the natural effect of those conditions which obtain during the transit is not the responsibility of the consignor. Suppose there is a very small leakage and when the matter is brought before the Court it may come to the conclusion that only five maunds out of 85 maunds should have been wasted and for the 80 maunds the Railway must prove that they took care, which care a man of ordinary prudence could have taken. Whatever may result from the condition of defective packing the consignor is responsible and I have no quarrel with that, but when they say that all this is due to the defective packing, I think the Railway should not avoid this responsibility and say that it is diminished because of the defective packing.

Then again they say that the packing will be such as will be ordered by the Railways. These conditions are good so far as they go but in the rural areas nobody shall be able to pack goods in that way. Only if they make the rules, no goods will be regarded as packed in a non-defective way. Even if this power is given to the Railways, yet the hon. Minister must see that the responsibility, when the goods are sent at owner's risk, is not diminished. What is the result? The result is that even now we know what care the Railways have shown, we know that thefts do take place and no proper care is taken of these goods. The result will be that the present condition will become still worse. If you lessen this responsibility the bad results will be that so far as public standards of public conduct are concerned they will further be

lowered. My hon. friend says that the business community like it and he further says that there are not many cases where such damages occur. If the cases are very few, then why do you take these powers? How will they benefit if the cases are few and so I am opposed to give you this power. At any rate, I should say that we are not justified in enacting this measure. As for the business community liking it, I must say that it does not like it. I have received some representations from the business community and in the replies which my hon. friend has got from the Federations etc., the business community do insist that the responsibility of the Railways may not be diminished and whatever the business community may say, I stand here for safeguarding the rights of the public and I do not want that the responsibility of the Railways should be diminished. If we go further and look at proposed section 74B we will see what the Railways Act has allowed them to have. Look at the manner and the spirit in which this provision has been made. After all what we want to have is a square deal between the Railway which is a monopolist and the ordinary man. Now the Railway has got a responsibility. The Railway charges freights from consignors for covered wagons and when the consignors agree to goods being carried in open wagons on account of the inability of Railway to supply wagons it fixed the responsibility upon the consignor. Section 74B says:

"When any goods which, under ordinary circumstances, would be carried in covered vehicles or vessels and would be liable to damage if carried otherwise, are at the request of the sender or his agent recorded in the forwarding note, tendered for carriage by railway in open vehicles or vessels, the railway administration shall not be responsible for any destruction, deterioration or damage which may arise by reason of the goods being so carried."

Now, Sir, I cannot conceive of a proposition more unreasonable than this. First of all the charge is for the transport of goods in covered wagons and, if a person agrees that his goods may be carried in any other way, the railway should not take it that the responsibility for the transport of such goods with all ordinary care and prudence is waived. In such cases only the damage that the goods might sustain while in transit in open wagons may not be laid at the door of Railway but if by the misconduct of the railway administration and its servants any damage is sustained the liability of the railway for the same should be there as before.

Then I come to proposed section 74C. As indicated above I am not in favour of this provision because it takes away the responsibility of the Railways in cases where a helpless consignor agrees to certain conditions. You will see that this is not a contract between two equals. In such circumstances it has been held that there is a certain amount of undue influence. In these cases we should consider that the Railways are monopolists and the consignors are helpless. In such cases we should see that equity in favour of the consignor is not toned down. If you refer to section 74C this point becomes clear. The Railways want to lessen their responsibility. May I know how a consignor will be able to prove this misconduct or negligence of the railway administration? He does not know how his goods were handled. Therefore this provision means that he will not be able to ask the Railway for damages. It is the railway that should show that there has been no negligence on their part. The burden of proof should be put on the Railways and not on the consignor. The attempt of the Railway Administration has been in all these proposed sections 74A to 74D to shift their responsibility. If the business community likes it, what is the use of inserting these new provisions? Why enact all these things? If things are to go on as before there is no occasion for changing this substantive part of the law. Dr. Bakhshi Tek Chand would have further explained his point of view if he were present. The enactment of clause 8 is objectionable. It makes a change in the substantive law of

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the land. If in other departments we set up a standard of public conduct; we will be lowering our morals if we do not hold the Railways responsible in these cases. I look at the question from a moral standpoint also. I do not want that in regard to Railways and other public administrations it should be said that they are corrupt and negligent. If you add provisions of this kind here, you will be encouraging the tendency to do immoral things and commit thefts. We will not be justified in putting these provisions on the Statute Book. I am clearly of opinion that in so far as this clause is concerned we should be very cautious. Unless we are convinced that there will be no lowering of the moral standards, I submit to the consideration of the Minister that he may please to withdraw these objectionable features from this Bill.

I want to say a word in relation to sections 41 and 42 of the Railways Act. It is not very long ago that we made this change which reads:

"Any complaint against a railway administration, or jointly against two or more railway administrations, that such administration or administrations—

(a) is or are contravening the provisions of section 28; or

(b) is or are charging—

(i) unreasonable rates, or

(ii) rates which are unreasonable by reason of any condition attached to them regarding minimum weight, packing, assumption of risk or any other matter....."

Similarly in section 42 (2):

"The Central Government alone shall have power—

(a) to increase or reduce the level of class rates, schedule rates and terminal and other charges."

Now a change is sought to be made in section 41 also and the Tribunal which was entrusted with certain powers lately is to be deprived of those powers or those powers are sought to be curtailed.

I should think there is nothing to warrant a change of this nature. Considering that it was only in the year 1948 that we made this change, unless and until there is something before us which will justify us in changing it, I am disposed to think that we should not divest the Tribunal of this power. We are not justified in taking away this power from the Tribunal when there is nothing to show that this power has not been rightly used by the Tribunal or there has been some abuse. The Select Committee was quite clear on this point. The Select Committee says:

"Under Section 42(2) of the Indian Railways Act, the Central Government alone has the power to increase or reduce the level of class rates, schedule rates and terminal and other charges and, although it is reasonably clear that the Tribunal has no jurisdiction in respect of these matters we would like clause (b) of section 41 to be recast so as to remove any doubt that may exist on this point."

My submission is that there is no justification for this change. When we have given these powers only in 1948, I think, we are not justified in taking them away, unless there is any particular reason for it. That is all I have to submit.

Shri Jaspat Roy Kapoor: Sir, I want to associate myself with all that has been said by my hon. friend, Pandit Thakur Das Bhargava. I have read the two minutes of dissent appended to the Report of the Select Committee by Pandit Thakur Das Bhargava and by another member of no less eminence

than Dr. Bakhshi Tek Chand. These two notes have convinced me, though I was myself, even before reading these notes, of the view contained in these two notes, but after having read these notes of dissent, if there was even the slightest doubt in my mind with regard to the correctness of my view, that doubt was completely removed. I think, Sir, that many an hon. Member of this House must have read these notes and those who have read these notes, I am sure, must be feeling convinced that they must fall in agreement with the views contained therein.

Sir, the hon. Minister of State for Transport and Railways has stated that this matter had been brought before the Railway Standing Finance Committee. Now, it is so, not only once but twice, if I am right. Once about the middle of last year and then early this year. Sir, if my memory has not failed me, I think the hon. Minister of State—now of course he is the hon. Minister of State for Transport and Railways but about the middle of 1948 he was not occupying this dignified position—was then not in favour of introducing a change in the legislation which is now being incorporated in this Bill. I think he was then of the view that all goods should be carried at railway risk. He was on the other extreme then. Now, of course, having been elevated to the position of Minister of State for Transport and Railways, his views seem to have undergone a complete change.

The Honourable Shri K. Santhanam: I must state that even now I would like to have only Railway risk, but the rates will prove a handicap to the business community.

Shri Jaspat Roy Kapoor: I am very glad, Sir, that Mr. Santhanam still holds the same views. If he does hold the same views, I see no reason why he should not insist on them and why those views should not be incorporated here. (Interruption). My hon. friend Mr. Sidhva tries to teach us something even during the course of this debate by his interruption.

Shri R. K. Sidhva (C. P. and Berar: General): I only wanted to state that in that case the rates would have to be increased. That is what the hon. Minister says.

Pandit Thakur Das Bhargava: Railway risk rates should be the same as the present owners' risk rates.

Shri Jaspat Roy Kapoor: I hope my hon. friend, Mr. Sidhva, will have the patience to hear me out. I know he has very strong views on every subject and he takes every possible opportunity of expressing his views on every possible subject whether it be questions, whether it be any Bill, or amendment, or whether it be a resolution or whether it be any other matter, and he would like to avail himself of every possible opportunity of even interrupting other Members. I do not grudge him any satisfaction that he may derive from his interruptions.

I was stating that if the hon. Mr. Santhanam still holds the views which he held then, I think he owes it to himself and he owes it to the Government to insist on those views and have legislation which would incorporate those views. If he had brought forward a Bill with such provisions, I would have whole-heartedly supported him, but as it is, not only he has not brought forward a Bill incorporating his strong views, but he has brought forward a Bill which contains provisions which go absolutely contrary to those views and which go the other way about. The present position was a middle one. It neither incorporates the views of Mr. Santhanam, nor does it incorporate the provisions that are to be found in this present Bill. The present position is

[Pandit Thakur Das Bhargava]

a middle one and I think it is a satisfactory position. I think that one important principle of any legislation is that no new legislation should be brought forward unless firstly there is a demand for it and secondly the new legislation must lead to some very good results. None of these two conditions, I think, have been fulfilled in this case.

The Honourable Shri K. Santhanam: This House referred it to a Select Committee.

Pandit Thakur Das Bhargava: There were certain good provisions also in the Bill.

Shri Jaspat Roy Kapoor: The House did refer it to a Select Committee. I am referring to the report of the Select Committee. I wish that the Select Committee had incorporated certain important amendments which have been referred to by my hon. friends, Pandit Thakur Das Bhargava and Dr. Bakhshi Tek Chand. Sir, a number of amendments have been tabled by Pandit Thakur Das Bhargava to this Bill as it has emerged from the Select Committee and I hope Government will be good enough to seriously consider those amendments and accept all of them, if not all of them, at least a large number of them. What I was submitting was that there was no demand either from the general public or from the business community for having legislation in the form in which it has been proposed according to the report of the Select Committee. I want to know whether any member of the business community, any responsible body, has stated that they want this change. Of course, my hon. friend, Mr. Santhanam, stated that some responsible bodies have not expressed their disagreement with it. That is another thing. My question is, has there been any insistent demand for the enactment of this new legislation? I am sure no demand was made by the business community. Another point is as to whether any good is going to result from the new legislation. In the Statement of Objects and Reasons it was pointed out that the necessity for this change in legislation is due to the fact that the present procedure is very cumbersome and leads to delay. It is cumbersome owing to the fact that two witnesses have to be secured to attest the signature of the consignor. That argument has been completely answered by Dr. Bakhshi Tek Chand, who in his minute of dissent has very ably put down that it is not legally necessary, according to the decision of the Privy Council, that there should be any attestation by witnesses. If that was a great difficulty it could have been easily met by accepting the argument of Dr. Bakhshi Tek Chand.

One other advantage has been mentioned by the hon. Mr. Santhanam and that is that there will be a saving of paper in that many unnecessary forms would be eliminated. I must confess that I have not been able to understand or appreciate the argument. There is to be a risk note in every case. The only point is whether that particular risk note or railway receipt should be considered as a railway receipt, according to which the consignor has agreed to send his goods at the owner's risk rate or whether it should be presumed that the consignor has agreed to send his goods at the railway risk rate. In every case there must be a railway risk note and I do not see any force in the contention that there will be saving of paper.

As I submitted before there was never a demand for this legislation from the business community. My hon. friend the Minister of State says that the business community is in full agreement with it. I had had occasion to talk to many a businessman and I have yet to come across one who will say that

this legislation is in the interests of the business community. No doubt that the Select Committee report has been signed by all the members except two, who have appended a minute of dissent. With due respect to the other members I am afraid I cannot attach much importance to their views, so far as the interests of the business community are concerned. I do not think that any one of the members of the Select Committee was a businessman who could have been expected to bring before the Select Committee the views of the business community. (An hon. Member: Why?) My hon. friend Mr. Sidhva again asks why. I do not know whether he claims to represent the business community.....

Shri R. K. Sidhva: Sir, he is again using my name and says that I am interfering with his speech. You can now understand.

Shri Jaspat Roy Kapoor: I thought he had put the question "Why?" As my hon. friend Pandit Thakur Das Bhargava rightly pointed out in his minute of dissent and also in the course of his speech that the railway and the consignor do not stand on the same footing. When a consignor goes to the railway station to book his goods all sorts of pressure is put on him. He has to fill in a form according to which he should agree to send his goods only at the owner's risk. Though I have no direct personal knowledge, this has been represented to me by persons in business. That being so, it is not a very fair proposition to say that the railway and the consignor stand on the same footing and that it is always open to the consignor to say that he wants to send his goods at railway risk rate. If we had agreed to the proposition that all goods must invariably be sent at railway risk, that would have been of very great advantage to the railway. They would have gained tremendously thereby as their income would have increased considerably. The increase in their income would have been more than sufficient to pay any claims that may have arisen by reason of having adopted that course. I think it was in the interests of the Railways not to have brought forward a legislation like this but to have brought forward a legislation according to which the owner's risk rates should have been eliminated altogether and there should have been only one rate and that should have been the railway risk rates.

As we all know there is a great deal of theft and pilferage on the railways. By having this new legislation I am absolutely sure that there will be greater theft and pilferage in the railways. The railway staff will hereafter think that they can steal more and perform their duties with much less efficiency, because the railways' responsibility will not then be to the same extent as heretofore.

Not only are risk notes being eliminated but even in the matter of burden of proof a very undesirable legislation is sought to be enacted. The consignor hereafter will carry the burden of proof in many cases and that seems to be unfair. I do not wish to dilate on the subject, because it has been so ably placed before the House by Pandit Thakur Das Bhargava and Dr. Bakhshi Tek Chand in their minutes of dissent. A minute of dissent on the legal aspect coming from such an eminent lawyer and retired judge of a High Court like Dr. Bakhshi Tek Chand ought to carry very great weight. In matters like burden of proof and other technical matters relating to law it is the view of eminent lawyers that should prevail and not the views of those who are not very competent to speak on the subject. I would very much like, if possible, to have on this subject, the views of my hon. friend Mr. Alladi Krishnaswami Ayyar, who is sitting sandwiched between the two Railway Ministers. Though wedged in between them I hope he will give his free and frank opinion on the subject.....

The Honourable Shri N. Gopalaswami Ayyangar (Minister of Transport and Railways): I may assure the hon. Member that neither of us is exercising any influence on him.

Shri Jaspal Roy Kapoor: I know that none of the two Railway Ministers is capable of exercising any undue influence on Mr. Alladi Krishnaswami Ayyar and even if they had made that attempt surely Mr. Krishnaswami Ayyar is not the person to be unduly influenced. (*Hear, hear*). They may not have influenced him by any arguments or by any persuasion, but the good and amiable personality of these two Railway Ministers of course carries with it its own influence.

There is only one point to which I would refer and that is the third aspect of the Bill—compensation. Of course I must associate myself with Pandit Bhargava when he congratulates the Railway Ministry for providing for compensation to all persons who may receive injury, irrespective of whether it is due to Railway negligence or not. But then we can congratulate the Railway Ministry only to that extent and no more. They have acted in this manner with very great ingenuity for what they intend to give by one hand they intend to take away by the other. I wish they had gone only to the extent of doing good to the general public and had not incorporated this provision here to the effect that the general law of the land with regard to compensation shall not be operative hereafter. The one argument that has been given by the hon. Minister of State in the course of his speech, for incorporating this provision, is that during the last ten years there has not been one case in which compensation for more than Rs. 10,000 was claimed. I am glad to hear that but I think that should have been an argument for not incorporating any change. If there were a large number of cases in which compensation for more than Rs. 10,000 was demanded, if there were a large number of decrees against the Railways for big sums, then there would have been some ground for incorporating this provision, for then it could have been argued and reasonably argued that the taxpayer is suffering heavily, that there is a heavy drain on the public exchequer with the large number of cases in which the Railway has to pay very heavy compensation. But that not being so I see no reason for incorporating this change. It appears to be absolutely unnecessary. The fact, which appears to be an argument in respect of this change to the hon. Mr. Santhanam, appears to me to be just an argument for not having this change. It is what we call in Hindi *Gunaah Belazzat*. You are creating an impression on the public that you are withdrawing from them a certain right whereas you are not going to gain anything thereby. Why not let this general right remain which has been in existence for so many years, whereby the Railways have not suffered anything but at least the public has the satisfaction that if there is any heavy loss to anybody due to an accident owing to negligence of the Railway then they are going to have this compensation? I therefore submit that the hon. Minister would be well-advised not to insist on this new change and would request him to accept the amendment of Pandit Bhargava on this subject when it is moved. Sir, I have nothing more to add.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

INDIAN RAILWAYS (AMENDMENT) BILL—Contd.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, before the proceedings begin may I refer to a certain thing that happened yesterday? Today in the course of the debate two hon. Members, Pandit Thakur Das Bhargava and Mr. Jaspal Roy Kapoor said that there is corruption in Government departments. That was the only thing I said yesterday. But Mr. Ananthasayanam Ayyangar in his private capacity said that if any Member thought that the Government was corrupt (which I never said) and "if he finds it impossible to correct the Government, then I think he may as well give up this country and go to some other place." Sir, I have the highest respect for Mr. Ananthasayanam Ayyangar.

An Honourable Member: It is a purely hypothetical case. How does it affect anybody?

Mr. Deputy-Speaker: May I state that he (Mr. Ananthasayanam Ayyangar) is in a different capacity here? What one Member says against another when he is on the floor of the House arises when he is present on the floor of the House to defend himself. The matter does not arise here.

Mr. Naziruddin Ahmad: I would like you to consider whether I deserved this.

Mr. Deputy-Speaker: So far as the Chair is concerned, it is not concerned with this.

Mr. Naziruddin Ahmad: Why should not Pandit Thakur Das Bhargava also leave the country and go to Pakistan?

Mr. Deputy-Speaker: I never said Pakistan.

Sjt. Kuladhar Chaliha (Assam: General): Sir, I have a very few short points to make as one who uses the Railways and that too very rarely. In the very good old days there was a ruling of a High Court—I won't say which—that if a crate arrives and the perambulator contained in it is missing the Railway is exempted from liability. That was in the very good old days. Subsequently it was over-ruled. Possibly we are now coming back to the same stage that when a crate arrives without the contents probably the Railway will be exempted from the liability. Are we coming to that stage or not, I am just thinking. I know the hon. Mr. Santhanam as one who championed the cause of the poor and the weak, the downtrodden and the oppressed, and I think he has not changed very much even now. I therefore think he will look into the plight of business people and people who go to railway stations to book goods and under what conditions they are forced to sign railway risks 'A' and 'B'. Then he will probably have some sympathy for all those who have to deal with railways. If the proposed clause 10 is allowed to remain as it is, probably it will be unsafe for anyone to book goods and in every case the Railways will go away scot-free from any liability. If you see the dissenting minutes of Pandit Thakur Das Bhargava and Dr. Bakhshi Tek Chand they have given cogent reasons against this. I shall read from Pandit Thakur Das Bhargava's minute. He says:

"Ordinarily speaking, the burden of proving proper care and diligence should be on the railway administration when the goods remain in their possession while in transit and they possess special means of knowledge.....It does not, however, follow that the policy of

[Sjt. Kuladhar Chaliha]

law should allow such presumptions to be raised in their favour as do not necessarily follow from a given set of circumstances so as to destroy the entire or substantial responsibility of the railway administration."

People have perforce to deal with the railways for booking their goods and they are obliged to sign risk forms 'A' and 'B'. If we have a common form in which the Railway's liability is there it will be much better than to ask the consignors to sign forms 'A' and 'B' and to absolve yourselves from all responsibility. I should like to suggest to the hon. Minister that it should be a uniform risk note in which the liability of the Railway should not be taken away. They should be responsible. For example I book a certain engine from here in an open truck. From Delhi it comes and reaches me at Jorhat with the crank shaft missing. The whole thing is spoiled. When such a valuable part is missing the engine cannot be run. You cannot exempt yourself from the liability. The engine may cost Rs. 40,000 or 50,000 and if the crank shaft is not there you cannot run the engine. Under the present law you will not be liable at all. Would you not like to see whether in such circumstances you should not modify it? I cannot but whole-heartedly support my hon. friend Pandit Thakurdas Bhargava's suggestion. Unless it is given effect to, probably it will be doing a great deal of mischief to the business community and to the people who have to deal with railways. People do not like it but they have to use the railways. If there were alternative methods of transport or communication they will certainly use them. But when they are obliged to book heavy goods by rail it is not fair that the railway should be exempted from the liability. I had my own experience when a shaft was booked for me from Calcutta in January 1948. It did not reach, me till October 1948. Three or four crates were given, but the shaft was missing. It is the most valuable part. Then they said that they were not responsible at all, that they have no liability and so forth. I said "I shall sue for Rs. 1,200". The shaft came afterwards in October. Everyone cannot bring a case against the Railways. Of course the station-masters were all very angry and said they were not responsible. The shaft is fifty feet or so long and two or three inches in circumference and it was lost on the way. And they wanted to wriggle out of it.

Under the present circumstances, they will not at all be liable and the business people will be ruined. I appeal to my hon. friend to consider the other side also. He is the man who is championing our cause always. He ought to consider the business people also. Otherwise, small trade and business will be ruined. In our part of the country, we have not got very big businesses. But we send oranges and potatoes. We send them in a basket. They are stolen. It cannot be said that it is defective packing that is responsible for it. If you exonerate your officers like this, perhaps there will be no potatoes or oranges. They are always going in gunny bags or baskets. I should therefore like my hon. friend Mr. Santhanam to reconsider this matter and bring in a fresh Bill or an amendment and withdraw this. That is my suggestion.

Shri Krishna Chandra Sharma (U. P.: General): I have seen the minutes of dissent of my hon. friends Pandit Thakur Das Bhargava and Dr. Bakhshi Tek Chand. I am sorry I find nothing very substantial in them which can be called detrimental to the public interest or the interest of industry and business. I have read clause 10. It says that in case of defective packing or something of that sort, the Railways would not be responsible. It is a commonsense proposition. If anything is sent ill-packed and the sender suffers loss, only he is to blame.

Shri Mahavir Tyagi (U.P.: General): Let the sender go along with his goods to the destination.

Shri Krishna Chandra Sharma: He cannot go. The railway is a public institution and the sender is as much responsible for the good administration of Railways as any railway servant himself. He has to perform a duty himself, that is, he must pack his things well. (Interruption.) I do not mean to yield to questions without substance.

Sjt. Kuladhar Chaliha: How can oranges be packed well? Can your enlighten?

Shri Mahavir Tyagi: Thieves do not look into packing at all.

Shri Krishna Chandra Sharma: It is not a question of theft. It is a question of defective packing. It is only ordinary commonsense that if something is to be sent, it should be properly packed; if one does not do that, he must suffer. After all, everybody has to do his bit and after doing his bit, he can claim liability from the other person who is responsible for doing his job. If one does not do his duty and thereby suffers, he cannot say that the other man has not done his duty and therefore he should be paid compensation. If the Railway authorities are found negligent or guilty of misconduct, they should certainly be held responsible. There is no saving clause that Railways would not be responsible in cases of negligence or misconduct. But in ordinary law there is such a thing as "contributory negligence". If a man is responsible for injury to himself, if he contributes to it, the other fellow who is responsible for the injury would not be responsible. If there is defective packing, Railways alone cannot be responsible. If the Railways are negligent or are guilty of misconduct, that is a different matter.

As regards animals, the Railway Administration simply wants that if there is more value of the animal than is given in the Schedule, the claimant has to prove that claim. It is a simple proposition. Ordinarily, there is a formula that a bullock will cost so much; a horse will cost so much and so on. If a claim is made over and above that formula, certainly the claimant must prove it. There is nothing detrimental to public interest in this.

In the matter of goods it has been argued that goods would be lost and the claimant would not be in a position to find out how they were lost or how injury was caused to them. There is a clause that the Railway Administration shall be bound to disclose to the consignors how the consignment was damaged in transit. This is a safeguard against the consignor being shut up from the knowledge of how the goods were damaged or lost. In these circumstances, I feel that only in case of negligence or misconduct on the part of the Railway in carrying or handling goods they should be liable. More than that, I think, in fairness to them, you cannot put a greater burden on the Railways.

About clause 12 relating to value of the packages, I do not find anything here with regard to compensation that is unjust or unfair to the public. It gives a fair deal. Neither the Railway nor the public has any advantage which cannot be called just and fair.

Regarding the insertion of new sections mentioned in clause 13. It is said that appeal shall lie to the High Court. Under the old section, the liability of the Railways shall in no case exceed Rs. 10,000 in respect of any one person. Now, the liability is kept as it is, but it is provided that there shall be a Commissioner for Compensation. He will visit the spot, meet the people, take the help of certain people who are in a position to assess the liability, and after consultation with them, he will adjudge the claim and pay the money on the spot. It is just to expedite the payment of the claim. It is to make claims much more easy than at present. But why should there be any provision for jurisdiction of the court to adjudge the claim? I do not

[Shri Krishna Chandra Sharma]

see any reason for having two remedies—one the claim to the Commissioner and the other the court. The Railway Administration would be put to trouble for nothing. The question may be that the Rs. 10,000 limit should not have been imposed. But that is already in the law. Nothing new has been done. When you put that limit, you should take into account the fact that the Railways are not something strange and foreign to us. They are a public concern and any money saved by them would be utilised for public purposes.

Pandit Thakur Das Bhargava: Take away Section 7.

Shri Krishna Chandra Sharma: Do not lose patience. Then in proposed section 82J there is power to the Central Government to make rules. You know under the new Constitution the Central Government would be composed of representatives of the people. The list of the items is very comprehensive. In making rules, public opinion, as it exists at that time, would certainly be taken into consideration. The law will not be exercised in a manner injurious to the people or without a general sense of the good of the people. As such, I do not think any harm will be done by the new proposal.

Sir, I support the Bill.

Mr. Naziruddin Ahmad: Sir, I have to explain that I am a signatory to the majority report of the Select Committee. I have, however, carefully considered the two very weighty dissentient minutes of Pandit Thakur Das Bhargava and Dr. Bakhshi Tek Chand and heard the arguments of Pandit Thakur Das Bhargava and I must confess that I have to change my opinion.

Shri R. K. Sidhva: What were you doing in the Select Committee?

Mr. Naziruddin Ahmed: I had the weighty example of the Minister of State himself who has had the courage to admit that his official opinion is contrary to his public opinion.

The Honourable Shri K. Santhanam: I am afraid the hon. Member is misrepresenting me. Short of abolishing the owner's risk altogether, my opinion is that the Bill is the best thing available.

Mr. Naziruddin Ahmed: All right, Sir. But a little while ago the hon. Minister made a more pointed statement. Now it is more diplomatically put. I would not waste the time of the House over that. The whole thing must depend on merits. I shall beg leave of the House to dissent from a part of the Bill, namely, the change of onus of proof or responsibility of negligence or misconduct on the part of the railway. This is a very important part of the Bill.

The Honourable Shri K. Santhanam: May I point out to the hon. Member that there is no change whatever in the Bill. Whatever there was in the risk note, is now in the Bill and if the Bill is withdrawn, things which are now in the Bill will still be there.

Mr. Naziruddin Ahmad: Now the provision in the present Bill is that if there is a loss to a consignor—and it may happen in a variety of ways—the onus of proof is on the consignor. My hon. friend Mr. Kuladhar Chaudhary pointed out a certain instance where a crate containing a perambulator arrived without the perambulator. The High Court gave a verdict that the railway was responsible for the crate and not for the contents.

Now the whole point of the provision in the Bill is that if the Railway Administration is guilty of negligence or misconduct, in that case certainly the consignor would be entitled to some kind of compensation for the loss. There is no difficulty as to the law, but the question is who is to prove it. Now the onus is on the consignor. My hon. friend Mr. Krishna Chandra Sharma

thought that it was a very simple thing for anyone to prove negligence or incompetence or misconduct on the part of the Railways, but negligences of a Railway are an extremely complicated and technical affair. If there is an accident on a railway—I have taken part in some trials involving railway accidents—there are a large number of documents, registers, notes and things of that sort which have got to be carefully considered in order to find out whether the railway was responsible or not. I ask you: "How can an ordinary consignor be in a position to prove negligence which can be done only by the books and other papers in the possession of the Railway Administration?" It would be impossible for anyone to go to a court and prove it. Although the liability is laid down that negligence and misconduct of the railway would justify payment of compensation for loss, still the method of proof which has been laid down here, the onus that that is on the consignor, makes it impossible, to my mind, for anyone to prove negligence. Well, the Railway Administration will merely say: "Just prove my negligence. While the proof lies in my own hands, you have to prove it." The books and other papers will not be available to the consignor and therefore he will miserably fail. He will not be in a position to prove negligence or misconduct on the part of the railway in any case.

It is from this practical point of view that I think that this part of the Bill should require reconsideration. The ordinary law, the law of offence, places the onus upon persons who have special knowledge of a certain thing. The railway has the special knowledge, the railway has all the facts, all the documents and all the papers in their possession and, therefore, it is only proper that the ordinary principle of asking a party which has special knowledge of a certain fact to prove that it had no negligence or misconduct should be followed. If this is not done, then it would be denying the benefits given to the consignor of getting compensation in case of negligence or misconduct on the part of the railway. I submit that from this practical point of view this provision would require a slight reconsideration.

श्री गोकुलभाई दौलतराम भट्ट: माननीय उप सभापति जी, इस बिल का मैं स्वागत करता हूँ। इसमें जो संशोधन किये गये हैं उस कमटी में मैं भी एक था। हम सबने सोच विचार करके, पं० ठाकुर दास भार्गव की दलीलें सुनने के बाद दस्तखत किये। और अब हमारे भाई नजीरुद्दीन साहब अपने विचारों से बदल रहे हैं और उन्हें पण्डित ठाकुर दास भार्गव साहब की दलीलों में बहुत कुछ वजूद लग रहा है तो वह अपने विचारों को जरूर बदल सकते हैं। लेकिन मैंने दो तीन बार उनके मिनिट आफ डिसेन्ट को देखा है। मैं यह कहना चाहता हूँ कि उसका कोई असर मेरे ऊपर नहीं हुआ और मेरे विचार में कोई फरक नहीं पड़ा।

मैं एक दो बातें जिसके मुतालिक यहां पर खास नहीं कहा गया है, कहना चाहता हूँ। मेरे भाई मिस्टर चालीहा जो कि पैकिंग के बारे में ज्यादा नहीं जानते हैं, अगर वह बम्बई की तरफ आ जायें या नागपुर चले जायें या दूसरी जगह जहां से हजारों करन्डे नारंगियों के, आमों के और दूसरे फलों के रोजाना पैक होते हैं, अगर वह उनको देखें तो जो यहां पर दलीलें पेश की गई हैं वह सब बेकार जाती हैं। यह मैं जरूर मानता हूँ कि रेलवे में कुछ अंशों में लापरवाही आई है। जो हम हाल

[श्री गोकुलभाई दौलतराम भट्ट]

वह कुछ ज्यादा लापरवाही से काम करते हैं। लेकिन अभी चन्द महीनों से रेलवे की गड़बड़ी सुधरती जा रही है। वह तो आप खुद ही यहां पर कह चुके हैं कि अब रेलवे में आने जाने में सहूलियत हो गई है और माल लाने ले जाने में भी सहूलियत हो गई है और रिश्वतखोरी भी कुछ कम हो गई है। तो मैं यह कहता हूं कि चार पांच महीनों से कुछ बदल हुआ है। मैं हर एक मेम्बर के अलग अलग प्रश्न का तो उत्तर नहीं दे सकता हूं। यह तो मिनिस्टर साहब का काम है। लेकिन मैं यह कहना चाहता हूं कि किस चीज की जिम्मेवारी रेलवे पर नहीं है वह इस प्रकार से है। एक तो वह आदमी जो अपनी जिम्मेवारी में माल ले जाता है। एक वह जो सेकण्ड शिड्यूल (Second Schedule) में बताया गया माल है जो कि मूल्यवान चीजें हैं और ऐसी चीज जो टूट फूट जाय तो उसके लिये रेलवे कभी भी जिम्मेवार नहीं हो सकती है। तीसरी चीज वह है जो नष्ट हो जाती है। फल जैसी चीजें। पके हुये चीजें। वह जरा सा धक्का लगने से, दबने से नष्ट हो जाता है। और चौथी चीज यह है। (defectively packed)। मैंने देखा है कि कई मर्तबा रेलवे में लगेज (luggage) बुक (book) करवाने के लिये आदमी आते हैं। वह आदमी कहते हैं कि लगेज बुक करवाना है। तो लगेज वाला बुकिंग क्लर्क कहता है कि इसको अच्छी रीति से बांधो, इसमें यह ठीक नहीं सिला है इसमें यह कीजिये, वह कीजिये, और इस तरह बारदाने में सी कर दीजिये। लेकिन हमारे आदमी ऐसे होते हैं कि वह कहते हैं, "भाई" ले लो, और चार आने आठ आने दे दिये और वह आदमी फिर उसको ले लेता है। तो इस तरह की चीज यानी डिफेक्टिव पैकिंग वाली चीजों की सारी जिम्मेदारी हम रेलवे पर डालें तो मैं समझता हूं कि वह बहुत बड़ा बोझ सरकार पर डालना होगा। इसका ह्याल हमें रखना चाहिये। मैं मानता हूं कि जितनी जिम्मेदारी रेलवे पर आ सकती है उतनी तो जरूर आनी चाहिये लेकिन उससे ज्यादा जिम्मेदारी रेलवे पर डाल कर अगर हम यह ह्याल करें कि हम लोगो का भला करते हैं या फायदा करते हैं तो वह ठीक नहीं होगा। इस तरह तो हम लोगों को काहिल बनाते हैं सुस्त बनाते हैं। और इस प्रकार लोगों को आलसी बनाना ठीक नहीं है इस लिये मैं इस चीज का समर्थन करता हूं और यह मानता हूं कि जो हमारी विशिष्ट कमेटी ने पास किया है वह ठीक है।

पण्डित ठाकुरदास भार्गव : आप जो फरमा रहे हैं यह उसके खिलाफ है जो हमने सिलेक्ट कमेटी की मैजोरिटी से पास किया है।

श्री गोकुलभाई दौलतराम भट्ट : मेरी दलील खिलाफ है। अच्छी बात है। यहां जानवरों की कीमत के बारे में चर्चा हुई थी और मैंने खुद यह सुझाया था कि

उसकी कीमत बढ़ा दी जाय। लेकिन जब यह कहा गया कि जो कीमत हमने यहां रखी है अगर उस कीमत से बढ़ कर अमाउण्ट (amount) वाली चीज आवेगी, जैसे समझ लीजिये कि जो घोड़े की कीमत यहां रखी है उससे ज्यादा कीमत का घोड़ा हमारे लगेज (luggage) गुड्स (goods) के लिये आवे तो उस आदमी को इसके लिये अपना बिल वगैरह लाना पड़ेगा और कहना पड़ेगा कि उसका घोड़ा इतनी कीमत का है। अगर वह कहता है कि हजार रुपये का है तो उसे उतने रुपये की रसीद वगैरह बतानी पड़ेगी और फिर हजार रुपये के मुताबिक चार्ज भी देना पड़ेगा। तो मैंने मान लिया कि यह चीज यहां आ गयी है और इसमें बहस की जरूरत नहीं है क्योंकि ऐक्ट में इसकी गुंजाइश रखी गयी है कि यदि कोई आदमी कहे कि उसकी एक हजार की चीज है और हमने यहां २०० रुपये ही रखे हैं तो वह हजार रुपये का इन्श्योरेंस (insurance) करा लेगा और उसके मुताबिक उसको मुआवजा भी मिलेगा अगर वह चीज खो जाय।

इसमें एक बात और है। शायद इसमें ऊंट तो दाखिल हो गये हैं लेकिन दूसर जानवर जैसे शेर और रीछ वगैरह ऐसे जानवर जो अधिक कर के सरकस आदि के लिये ले जाये जाते हैं उनका भी कहीं उल्लेख हो जाता तो अच्छा होता। शायद वह दूसरे शब्दों में भी आ जाय जो यहां लिखे हैं 'अदर एनोमल्स' (other animal,) शायद इसमें उनका समावेश हो जायगा।

अब मैं कम्पनसेशन (compensation) के बारे में एक शब्द कहना चाहता हूं। हम लोग हमेशा आवाज उठाते हैं कि न्याय जल्दी से मिलना चाहिये। जब हम इधर समरी ट्रायल्स (summary trials) की तरफ जाते हैं

Shri Mahavir Tyagi: Justice should not be made cheap.

श्री गोकुलभाई दौलतराम भट्ट : तब तो फिर आप पंचायत वगैरह की बात ही छोड़ दीजिये और महात्मा गांधी की बात भी आप लोग छोड़ दें। जब हम कहते हैं कि कम्पनसेशन (compensation) के लिये एक कम्पनसेशन कमिशनर (Compensation Commissioner) नियुक्त होगा और वह जल्दी से इसका फ़ैसला करेगा तब हम उज्र उठाते हैं और कहते हैं कि नहीं, मामूली तौर से जो कोर्ट में अब तक चला आता है वही हक रखना चाहिये। मैं मानता हूं कि यहां जो संशोधन किया गया है वह बेहतरी के लिये किया गया है और उसमें किसी को कोई नुकसान हुआ हो तो उसको जो मुआवजा मिलने को है वह जल्दी से मिलेगा। इसमें कोई शक नहीं है। दूसरी बात यह है कि इस विषय में यहां बहुत सख्त अल्फ़ाज कहे गये हैं और पण्डित ठाकुर दास जी ने जो आज तकरीर की वह भी पुरजोर थी और ऐसे

[श्री गोकुलभाई दौलतराम भट्ट]

कहा जैसे वह कोई घोर विरोध कर रहे हों। और उनके मिनट आफ डिसेंट (Minutes of Dissent) में जो भाषा इस्तेमाल की गयी है "सैक्रिफाइस आफ जस्टिस" (Sacrifice of Justice) वगैरह, मैं समझता हूँ कि वह भी पसन्द करने के लायक बात नहीं है और ऐसे ब्रजुर्ग आदमी से यह चीज निकलती है तो मुझे थोड़ा रंज भी होता है। खैर, उनका विरोध वह रख सकते हैं और चाहे उस भाषा में रख सकते हैं। मैं मानता हूँ कि अदालत के बजाय जो क्लेम्स कमिशनर (Claims Commissioner) का सुझाव रखा गया है वह ज्यादा अच्छा सुझाव है। इसके साथ यह भी है कि तीन महीने के अन्दर ऐप्लीकेशन (application) करनी चाहिये। लेकिन साथ ही एक साल के लिये भी गुंजाइश रखी गयी है। अगर क्लेम्स कमिशनर को मालूम हो कि यह आदमी बाहर का रहने वाला है, दूर देहात में रहता है और ऐप्लीकेशन पहले नहीं कर सका तो वह उस आदमी के हक्क को स्वीकार कर सकता है और इसके लिये एक साल की मीआद रखी गयी है। तीसरी बात यह है कि कई मित्रों ने भी इसको बताया है कि मामूली कोर्ट में एक आदमी अपना हक्क रखता है और वहां फ़ैसला करा लेता है लेकिन आखिर अपील तो हाई कोर्ट में होती है। तो यहां भी क्लेम्स कमिशनर अगर कोई गलत बात करता है तो अपील हाई कोर्ट में होती है। तो ऐसी सूरत में मैं नहीं समझता कि कौन सा हक्क छीन लिया जाता है कि जिसके लिये इतना शोर व गुल होता है।

एक आखिरी बात मुझे यह कहनी थी और उस विषय में मैं अलग राय भी रखता हूँ लेकिन बाद में जो और मित्रों की राय थी उसको मैंने मान लिया। वह है धारा ११४। यह धारा सीजन टिकट (season ticket), हाफ रिटर्न टिकट (half return ticket) और सिंगल टिकट (single ticket) के बारे में है। मेरा यह ख्याल है कि आप चाहे जितनी पाबन्दियां रखें, चाहे जितना अपने क़ानून को सख्त बनायें, लेकिन जो चोरी करने वाले हैं, जो गलत इस्तेमाल इन टिकटों का करने वाले हैं वह तो करते ही रहेंगे। आप किसी तरह भी उनको नहीं पकड़ सकते। मैंने बम्बई में देखा है कि सीजन टिकट पर दस्तखत कराते हैं। तो वह आदमी उसी तरह हू बहू दस्तखत कर लेता था और जो आदमी पहले लेते समय दस्तखत करता था वह इस तरह करता था कि दूसरा कोई भी आदमी उस तरह से दस्तखत कर ले। तो आप चाहे जो भी करें, जुरमाना या सज़ा चाहे कुछ रखें न तो कोई इसको पकड़ सकता है और न इन बातों से कोई फ़ायदा होता है। लेकिन मने इस पर इस लिये जोर नहीं दिया कि जो चीज चलती है उसको चलने दिया जाय। आगे जब हम सुधर जावेंगे तो इस चीज को निकाल देंगे क्योंकि यह बहुत ज़रूरी और आवश्यक चीज नहीं है। जो चीज चली आ रही है उसको नहीं बदलना चाहिये इस लिये भी मैंने इस पर जोर

नहीं दिया। लेकिन यह एक बात थी जो मैंने आपके सामने रखी है। दिशिष्ट कमेटी ने इतनी ही बातें इसमें रखी हैं। इसलिये मैं मानता हूँ कि जो संशोधन रखे गये हैं वह ठीक रखे गये हैं और वह हमारी जनता की भलाई के लिये ही रखे गये हैं।

(English translation of the above speech)

Sari Gokulbhai Daulatram Bhatt (Bombay States): Sir, I welcome this Bill. I was also one of the Committee which amended this Bill. All of us signed the Report after careful consideration and after hearing the views of our hon. friend Pandit Thakur Das Bhargava. Now my hon. friend Mr. Naziruddin Ahmad is changing his views and he is feeling a great force in the arguments of Pandit Thakur Das Bhargava. He can surely change his views. But I have gone through his minute of dissent two or three times. I would like to say this much that it has not at all appealed to my mind and hence it could not affect my views.

I would like to say something in regard to two or three things which have not been particularly mentioned here. If my hon. friend Mr. Chaliha, who is not very much conversant with packing business, happens to go to Bombay side or visit Nagpur or any other place, where thousands of baskets of oranges, mangoes and other fruits are daily packed, and looks at these, then he will find that all the arguments which have been expressed here become nugatory. I do admit that slackness has crept in certain ranks of the Railway. The porters discharge their duty little more carelessly. But since the last few months, the mismanagement on the Railways is showing some marked improvement. This you have yourself stated here that the travelling on the Railways has become convenient now and the transport of goods also has been facilitated and the corruption too has somewhat decreased. I, therefore, say that a change has been made for the last four or five months. I cannot reply to the questions of every member individually. It is for the hon. Minister to do this. But I would like to refer to certain things for which the Railway is not responsible, and they are these: firstly, one who carries the goods on his own responsibility; secondly, the goods referred to in the Second Schedule which are valuable and such other articles which are liable to breakage, and for which the Railway Administration can never be responsible; and thirdly, the articles which are perishable, like fruits etc. The ripe chekoos perish even as a result of rough handling and stacking, and fourthly, defectively packed articles. I have seen that very often persons come to get their luggage booked by the Railway. They say that luggage is to be booked. Then the luggage clerk tells them to pack it properly; points out that it is not properly sewn, asks them to do this or that and advises them to wrap it in a bag in a particular manner. But our people are of such a nature that they insist upon him to accept the consignment and grease his palms and he then accepts it. I, therefore, feel that if we put the entire responsibility for such sort of defective packing on the Railway administration, this would tantamount to imposing a huge burden on the Government. We should bear this in mind. I admit that the Railway administration should be held responsible to a specified limit, but if by thrusting upon it the responsibility beyond that, we feel that we are doing good to the people, then it would be a wrong notion. In this manner we encourage the people to become negligent, careless and idle and this is not a right method. It is, therefore, that I support this and confess that whatever the Select Committee has passed, is quite in order.

Pandit Thakur Das Bhargava: What you are saying is contrary to what we passed by a majority in the Select Committee.

Shri Gokulbhai Daulatram Bhatt: My views are to the contrary. It is good.

[Shri Gokulbhai Daulatram Bhatt]

During the course of the discussion on the valuation of the animals, I myself had suggested that it should be raised. But when it was pointed out that in the event of an article the value of which is more than the amount mentioned therein, for instance, when a horse carrying more value than that which has been specified here is tendered for booking, the consignor shall have to bring along with him the bill, etc., and make a declaration about the value of his horse. In case he declares that it costs Rs. 1,000, then that person shall have to produce a receipt etc. for that amount and further pay the charges on the basis of Rs. 1,000. Therefore I confessed that since this thing has been provided here, there is no need of entering into any discussion over it, because provision to this effect has been made in the Act that in case any person declares that his article carries a value of Rs. 1,000, and whereas we have specified only Rs. 200 here, then he shall have to get it insured for Rs. 1,000 and in case of the loss of the article, he shall have to be paid the compensation on the basis of that sum.

There is another thing in this. Perhaps camels have been included in it, but it would have been better if other animals such as tigers, bears, etc., which are mostly carried for the purpose of circus shows had also been mentioned somewhere. Perhaps this might be included in the words "other animals" which have been mentioned here. They might be covered by these words.

Now I would like to say something in regard to compensation. We people always clamour that justice should be done speedily. When we provide for a summary trial here.....

Shri Mahavir Tyagi: Justice should not be made cheap.

Shri Gokulbhai Daulatram Bhatt: Then you should set aside the idea of Panchayat etc., and the ideology of Mahatma Gandhi too. When we say that a Compensation Commissioner shall be appointed to determine the compensation and he will hold a summary trial, then we raise an objection and say 'no', and assert that the long and established right to get compensation from the ordinary courts should be preserved. I admit that the amendment which has been made here is for good and if anybody sustains any loss on that score, then he shall get early payment of the compensation thus due to him. There is no doubt in it. Another thing is that very strong words have been used here in this connection and the speech delivered by my hon. friend Pandit Thakur Das Bhargava was also very forceful and he spoke as if he was opposing vehemently. I feel that the language used in his minute of dissent viz., "sacrifice of justice" is also not appreciable and I am a little pained when such a thing comes from a veteran like him. Well, he is at liberty to oppose it, and may, if he so desires, use such a language. I confess that the provision of a Claims Commissioner in place of a law court is a much better proposition. Along with this, provision has been made that an application should be submitted within a period of three months. But simultaneously it also stipulates the time-limit of one year. If the Claims Commissioner comes to know that a certain person comes from a way-side place, or lives in a remote village and thus could not submit his application before-hand, then he can entertain his claim and to cover such a contingency, the time-limit of one year has been laid down. Thirdly, just as many of my friends have also pointed out that a person has got the right to approach the ordinary law court and secure its judgment, but virtually the appeal lies to the High Court. So here also if the Claims Commissioner does anything wrong, then the appeal lies to the High Court. In such circumstances I, therefore, fail to understand what right is taken away for which so much hue and cry is raised.

Lastly, I had to say one thing and in that respect I also hold my individual opinion, but afterwards I acquiesced to the opinion expressed by my other

friends, and that is Section 114. This Section refers to season ticket, half of a return ticket and single ticket. I personally feel that whatever restrictions you might impose, how much rigorous law you might enact, but one who is habituated to commit a theft or misuse the tickets, he shall continue doing so. You cannot in any way detect him. I have seen in Bombay that people are required to sign on a season ticket. Then a certain person forges his signature in exactly the same manner in which the one who signed while purchasing the season ticket and the latter affixed his signature in such a way that this was susceptible of being forged. Therefore, you may do whatever you like, you may provide for a fine or imprisonment, neither can anybody detect them nor can any advantage accrue from such things. But I have not laid stress upon this for the reason that whatever practice is in vogue, it may be allowed to continue. In future when we are in a position to effect some improvement, we shall eliminate this thing, because it is not very essential and necessary. That the existing practice should not be changed is also one of the considerations which has induced me not to emphasize upon this. But this was one of the things which I have placed before you. The Select Committee have made a provision in it to this effect only. Therefore, I feel that the amendments which have been made, are quite in order and these are intended for the benefit of our people.

Dr. P. S. Deshmukh (C. P. and Berar: General): I am conscious, Sir, that there has been a prolonged discussion on this motion and I therefore want to be as brief as possible. I sympathise fully with the minutes of dissent of two hon. Members of this House and Members of the Committee, and I agree with the substance of their dissent. My friend, Pandit Thakur Das Bhargava has also elucidated his dissent by a speech with which also I agree. My hon. friend, Mr. Sharma probably did not wish to revise his former opinion and he, therefore, wanted to stick to what he had done in the Select Committee, but we had one brave hon. Member of this House who admitted the force of the arguments advanced on the other side and was prepared to confess a change of opinion, Mr. Naziruddin Ahmad. Sir, the whole matter, as Mr. Naziruddin Ahmad pointed out, is one of the burden of proof, as to who as a result of these amendments is going to be saddled with the burden of proof, so far as negligence is concerned. As he pointed out, the railway authorities are in the best know of the causes of the deterioration or loss and the burden should naturally be upon them and not upon the poor man who takes the risk of sending anything that belongs to him by the Railways. Mr. Gokulbhai Bhatt has said that if we do not have these provisions then we will be encouraging negligence on the part of the people. My submission is that if you leave the provisions as they are, you will be increasing the bad habits from which the railway administration now suffers. You will be giving a direct incentive to such bad habits. With the existing checks the administration of the railways is bad enough; if on the other hand by this amendment the burden of proving negligence is thrown on the consignors, the administration will tend to become worse. From that point of view I suggest that some, at any rate, of the amendments given notice of may be considered at the appropriate stage. For instance in proposed section 74A, and in sub-clause (3) of proposed section 74C, in spite of the fact that the railway authorities have special knowledge of the circumstances, the responsibility is thrown on the consignors. It will have very bad results.

So far as clause 15 is concerned, I am glad that Shri Gokulbhai Bhatt has admitted that there is no point in continuing this provision. In fact the amendment seeks to enhance the penalty. If he agrees to leave the matter as it stands then there will be no enhancement in the penalty brought about by this clause also. I would, therefore, like that any amendment to section 114 of the Railways Act should not be considered except for the addition of season tickets. Apart from that, there is an attempt to enhance the penalty. I do

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not think any fruitful result will be obtained by this. I for one do not think that we should try to frighten our people by enhancing the penalties and rectifying their morals by this means. It is all futile and would not do much credit to ourselves. From that point of view I would urge the withdrawal of this amendment to section 114.

So far as compensation payable for the various animals is concerned, Shri Gokulbhai Bhatt also admitted that the rates proposed were low. Not only that. The grouping of the animals has been very funny. For instance you will find that dogs, donkeys and birds have been grouped together and a minimum value of Rs. 30 for each has been fixed. I do not think there can be any comparison between a goat and a bird. Rs. 30 minimum value fixed is also low. The value of Rs. 200 fixed for mules, cattle and camels per head is also inadequate. I do not think any good cow or bullock can be purchased for such a low price. I think there should be a revision of the prices. I do not think people are in the habit of sending bad cattle for the sake of getting compensation from the railways. I do not think there is any truth in that allegation. There should therefore be a better classification and raising of the rates. From this point of view I would urge that the amendments of which notice has been given by Pandit Thakur Das Bhargava should be acceptable to the hon. Minister. By accepting these amendments he will not only be obliging the general public who use the railways and whose cause he used to champion, but he will also contribute to the improvement of the railway administration.

Shri Upendranath Barman (West Bengal: General): May I put one question to the hon. Minister, Sir? Clause 10 refers to the burden of proving misconduct. I find there that only in three cases is the Railway administration bound to disclose to the consignor how the goods were carried.

Mr. Deputy-Speaker: What is the question of the hon. Member?

Shri Upendranath Barman: I do not find any provision in regard to cases other than where the whole consignment or package is lost or is secured, covered or protected. In such cases will the railway administration be not responsible?

The Honourable Shri K. Santhanam: I may answer the last question first. Whenever an article is.....

Batu Ramnarayan Singh (Bihar: General): I have to say something.

Mr. Deputy-Speaker: I did not notice the hon. Member rising when I called upon the hon. Minister to reply. He may take his chance at the stage when the Bill is discussed clause by clause.

The Honourable Shri K. Santhanam: I may answer my hon. friend Mr. Barman first. The position is this: Whenever any article is sent by railway risk, even when the article is delivered at the other end and there is damage or loss, the railway is to disclose the particulars of its carriage and must be responsible for the loss unless it proves that it is not due to its negligence or anything. Similarly, when an article is sent at owner's risk or is lost then also the railway will have to say that the loss happened owing to an accident or fire or some cause beyond its control. Similarly in the contingency provided by (b). The Bill does not deal with articles sent by railway risk at all. The liability of the railway for articles sent under railway risk is not being dealt with in this Bill. That is the first point to be made clear.

Shri Mahavir Tyagi: So the liability is not altered now?

The Honourable Shri K. Santhanam: No. The onus of proof is on the railway unless it can show that it is due to causes beyond its control.

Now I will read from the opinion received from the Chambers of Commerce. I am reading from a letter dated 6th April 1949 from the Federation of Indian Chambers of Commerce and Industry: 'The Committee consider that the proposed changes would constitute an improvement on the existing position since they would enable the consignor who has executed a risk note to avail himself of the existing alternative owner's risk note'. I think they mean the forwarding note.

Pandit Thakur Das Bhargava: What is the meaning of 'the proposed changes'? What are they referring to?

The Honourable Shri K. Santhanam: In this letter the subject heading is 'Elimination of risk notes.'

Pandit Thakur Das Bhargava: I have also got something from that very body.

The Honourable Shri K. Santhanam: They have said something on the changes considered by the Select Committee. We are not concerned with the changes which they have suggested to the other sections. On this question of the general principle of eliminating risk notes they say that it would constitute an improvement in the existing position. Then this is from the Associated Chamber of Commerce of India whose composition you know and who will not be easy to accept any change in the responsibility of railways:

"The proposed modifications are in general welcome and acceptable."

Then they go on with some amendments to the clauses. Sir, before I proceed to answer some criticisms made, I would like the House to listen to me on this point. There is a great deal of confusion caused by my friend, Mr. Naziruddin Ahmad and following him by my friend, Dr. Deshmukh, saying that the onus of proof has been shifted. It is not at all the case. Now the position is that every time a man sends articles at owners' risk, he signs a risk note in which it is said that the railway will not be liable for anything unless misconduct is proved by the consignor or the consignee. This causes a great deal of harassment. My friend, Mr. Jaspat Roy Kapoor, spoke about corruption and difficulty of sending consignments. I say this Bill will materially reduce it. Today it is in the interests of the goods clerk and the parcel clerk to induce people to send things at owners' risk and sign the form. Some hon. members say that attestation is not legally necessary. It is quite true. There are many illiterate people and the signature may be denied and to safeguard themselves every railway station master, every goods clerk, insists that the consignor should bring two witnesses and he insists that the witnesses should be persons known to him. Therefore, in order to escape these difficulties, generally the consignor is tempted to pay a few annas so that the thing may be accepted. Hereafter it will be in the interests of the goods clerk to advise people to send things at railway risk because they will be able to show some increased revenue for the railways and they can say, "See, we have increased the revenues of the railways."

Shri Jaspat Roy Kapoor: Now they will save a few annas but lose the goods.

The Honourable Shri K. Santhanam: Again I say the railway are no more liable than they will be under the Bill. Everytime he signs a note now. Instead of that, he will only say whether he chooses to send it at owners' risk. Every time to ask every consignor to sign the forms is a waste of national time, national energy and national resources. I think the whole thing is a very cumbersome procedure. We are not altering the liability at all except to the extent that he has to prove misconduct or negligence.

Pandit Thakur Das Bhargava: The present law is that even if negligence is proved, the railway is liable.

The Honourable Shri K. Santhanam: I have not gone into the legal aspects of the case. The consignor signs a risk note saying that the railway shall not be liable unless he proves misconduct.

Mr. Deputy-Speaker: What hon. Member seems to want is that in spite of the risk note, the railway must be liable.

The Honourable Shri K. Santhanam: I am coming to that. Therefore so far as the existing liability is concerned, it is kept intact. There is no increased liability. There is no change in the onus of proof. Only instead of signing a useless document, people are free from harassment. Now, we come to the question of liability itself. Sir, so far as this question of changing the existing law is concerned, I can understand Members going into the general question of responsibility if we bring in a comprehensive legislation. Here this is a purely procedural Bill. It is not fair to ask that I must make a fundamental change in a procedural Bill. This is not the time to ask for it.

Then coming to 74A, sub-clause (2), Pandit Thakur Das Bhargava complained that the controlling authority will have power to make rules for packing goods. Today the position is that because there are no regulations on the subject, it is open to any station master or goods clerk to say that the goods are not properly packed. Therefore, if you lay down a general uniform basis, that will be the standard by which every man will judge whether his consignment is properly packed or not, and if the Station Master rejects the things, he will have a legitimate room for complaint. It is for the facility of the mercantile classes that we want this regulation. It will be a great convenience to them. Then, if somebody sends a leaky thing, it is open to the man to say that the leakage ought to have been only five seers and not 10 seers. Now, if the whole thing to be decided by a court of law, it has to be impounded, we must take the package to the court and then the court will decide after so many months or years whether the leakage ought to have been five seers or ten seers. This will make the railway administration come to a standstill. Otherwise we will have to have a court at every station which is an absolutely impracticable proposition. If a man sends a leaky package, he must take his chance. Otherwise the railways will simply refuse to take the package. Therefore the result will be that poor people who are not able to pack their things well will not be able to send their goods by railway or the railways will refuse to deliver the goods at the other end. In other words, it will be the business community that will suffer and not the railways. About the general administration of railways, hon. Members will have plenty of opportunities to discuss, and the defects of the general administration should not be brought in when we are considering the question of legal rights and responsibilities.

Take for instance the other clause 74 B. Ordinarily certain things should be carried only in covered wagons, e.g., sugar, salt, etc. The consignor wants a wagon. The railway says, "No covered wagon is available now. Please wait till we can provide you with a covered wagon." The consignor says, "Send it by an open wagon. It is only a dry season now. There is no risk of rains. Please move it in an open wagon to the destination." Then the railway could only carry that thing on the district understanding that if there is any damage or loss, the responsibility will be that of the consignor. Now Pandit Thakur Das Bhargava wants that the railway should prove that it was not due to its negligence or misconduct.

Pandit Thakur Das Bhargava: My amendment has nothing to that effect. In such cases the onus is on the consignor.

The Honourable Shri K. Santhanam: Anyone may say that the railway ought to have made an effort to save it and ought to have covered it with tarpaulin or something. In such case, the railways will refuse to give an open wagon. The railway would not suffer. The man knows that there is a 99 per cent. chance of the thing going to the destination safely. There is only one per cent.

risk. He willingly takes that risk. This is only a facility. It is purely optional. There is no compulsion about it. In that case for providing a facility at the instance of the consignor the railways cannot undertake a higher responsibility.

As regards clause 74D, I am afraid Pandit Bhargava has misunderstood the meaning of the words "the Railway administration shall be found to disclose to the consignor how the consignment or package was dealt with throughout the time it was in its possession or control." This is only another way of declaring a bailee's responsibility. We have put in these words, because they are there in the original Act and in similar railway Acts. We did not want to change the wording. No railway will undertake to make this disclosure, unless it is absolutely certain that no proof of negligence or misconduct can even be inferred, from such disclosure. Ordinarily the railway will pay the damage; but it is only when it is sure that it is due to accident or some other cause, it will take cover under this clause. Therefore it is an expression of bailee's responsibility. The wording is taken from the existing Act and I do not think that at this stage we should change it.

As regards accident claims I want to suggest that my hon. friends are mistaken in their enthusiasm for retaining the old common law liability. I put a specific question: What is to happen to the Railway if one son went to the Commissioner and another son went to a court of law? Neither Pandit Bhargava nor Mr. Kapoor tried to meet such a contingency. We are not asking anyone to lose their common law rights. Today the common law liability is that if you can prove negligence or failure of duty you will get some kind of damages. Now he has exchanged it for a certain right. Even a rich man may become poor in an attempt to prove that an accident is an act of failure or negligence. It is only in very rare cases that any accident can be proved as part of negligence. When a train is in motion the guard, the driver and other staff on the train value their lives as much as the passengers in the train do. It will be hardly possible to prove any negligence on their part. Regarding station staff their responsibilities are so clear that no station staff will ordinarily be failing in their duty and if they do they are liable to be prosecuted, dismissed or otherwise taken action against. Therefore in almost all cases it will be practically impossible to prove any negligence or failure of duty. Even the richest millionaire will get no compensation ordinarily. It is only in the extraordinary circumstance of his proving negligence or misconduct on the part of the railway that he will get anything. In exchange for that very vague and uncertain chance of getting a big lumpsum he today gets a certain sum of Rs. 10,000 without going to a court or proving anything whatsoever. He can say "I went by that train and there was an accident and therefore give me Rs. 10,000." If any gentleman thinks that his life is no precious that every time he travels by train he must cover his life for a larger sum, there are insurance companies to help him. Just as people insure themselves for an air travel he can do so for his train journeys by insuring himself for as many lakhs as he wants. The insurance companies will be glad to take his premium and insure him for as much as he desires. This provision is intended for the mass of the people of India. The railways are used by 100 crores of people. 99 per cent. of them will be glad to get Rs. 10,000 or part of it by a very quick and speedy process. Besides this, we cannot allow the railways to go before a court also whenever an accident happens. You cannot put on a public institution like the railways various kinds of liabilities which will distract them from their normal work. It is intended to do justice to the people and absolve the railways of responsibility, as soon as the Commissioner has done his work. I think it is a simple and rational process. We should not extend the liability.

I hope I have explained all the points. If the Bill is withdrawn, as I have said, except for some tons of paper every year and some additional work for

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the railway staff, the railways do not lose anything but the commercial community will lose a great deal and people who meet with accidents will lose the great facility which we want to give—a facility which is universally accepted as a necessary facility.

In conclusion I may also say that so far as this or any other Bill is concerned I have not changed by coming over to this side. In fact I have looked into it with the same eyes as I used to from there before and it is because I think the business community will gain by this process that we have increased the responsibility of the railway by fixing it in this way. Today it is open to the railway administration to lessen their responsibility further by changing the form of the risk note. Now it cannot be changed except by a change in the statute. In that way there is a fixation of rights and responsibilities. This ought to have been done by statute and it was rather wrong hitherto for the Government of India to have allowed these rights and responsibilities put down by the administration on a mere risk note, which had to be signed by poor people who could not understand it. Now the legislature is making the present position legal. Hereafter whenever any change is needed it is open to us to come to you and say that we will have to readjust our responsibility. It may be possible within the next two or three years to undertake a comprehensive revision of the Railways Act. When that comes about it will be open to Pandit Bhargava and others to raise the general question of responsibility and how far the responsibility should be further shifted over to the Railways. But this is not the Bill or the occasion to do that.

Shri M. Tirumala Rao (Madras: General): On a point of information, Sir, is it contemplated to frame rules for the guidance of the authority that fixes the compensation?

The Honourable Shri K. Santhanam: So far as accidents are concerned, any person who is injured in an accident will be entitled to compensation. Under the rules we are contemplating we will authorise the district magistrate or others in the case of minor accidents immediately to take action and award compensation. But where it is a case of a big accident we shall appoint special commissioners because the work may be heavy, a large number of people may be involved and it would not be possible for local officials to deal with it.

Shri M. Tirumala Rao: Is it contemplated to evolve a set of rules for the guidance of these people by the department itself?

The Honourable Shri K. Santhanam: Section 82I empowers the Central Government to frame rules. They will have to frame rules consistent with the rights and responsibilities conferred by the Act.

Dr. P. S. Deshmukh: The payment of compensation is likely to make accidents very attractive!

Mr. Deputy-Speaker: It remains to be seen.

The question is:

"That the Bill further to amend the Indian Railways Act, 1890, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 were added to the Bill.

Pandit Thakur Das Bhargava: Sir I move:

"That in clause 5 of the Bill, in clause (b) of sub-section (1) of the proposed new section 41 of the Indian Railways Act, 1890, for the words 'is charging station to station rates or wagon load rates which are unreasonable' the words 'is charging unreasonable rates', be substituted."

Sir, the Act of 1948 made this change and the tribunal was invested with powers to interfere when the railways were charging unreasonable rates. The relevant portion of section 41 enacted in 1948 reads:

"Any complaint against a railway administration, or jointly against two or more railway administrations, that such administration or administrations—

(a) is or are contravening the provisions of section 28; or

(b) is or are charging—

(i) unreasonable rates, or etc."

Therefore you will be pleased to see that under section 41 the words are absolutely clear and unambiguous that in case of a complaint in respect of unreasonable rates the Tribunal shall have the power. This power is now sought to be taken away by this amendment in clause 5 of the Bill where the words "station to station rates or wagon load rates which are unreasonable" are sought to be substituted in their place. Thus the work of the Tribunal is sought to be circumscribed. At the consideration stage I stated that no material has been provided to us as to why these words should be changed. So far as the question of the Tribunal is concerned, I have more confidence in the Tribunal and Government also seems to have that confidence in the Tribunal as they have enacted the law in 1948. Nothing has happened since then to lead us to think that we had made a mistake then and that we should rectify it now. As a matter of fact the claim has been made in the Select Committee Report that it is the doubt in the interpretation of section 41 which is now sought to be removed by virtue of this clause. To my mind the interpretation of these words is quite clear. They do not admit of the interpretation which is sought to be placed upon them by the Select Committee. I therefore submit that this amendment be accepted.

The Honourable Shri K. Santhanam: Sir, it is a pity that we have to discuss this matter which was elaborately discussed in the Select Committee. Under section 42(2) of the Indian Railways Act it is stated:

"The Central Government alone shall have power,—

(a) to increase or reduce the level of class rates, schedule rates and terminal and other charges.

(b) to classify any commodity which has not been classified before."

This power is given exclusively to the Central Government. Under this clause, as it was in section 41(b), a complaint can be made where the administration or administrations are charging unreasonable rates. But it is the business of law-making to make the position unambiguous and clear. In section 42(2) this question of level of class rates is given exclusively to the Central Government. We did not want that so far as the level of class rates is concerned it should go to the Tribunal. It is only station to station rates or wagon load rates or the question whether a particular article should be put in a particular class or in another class which are matters for the Tribunal. So we have tried to take this opportunity of making the position clear. Our legal advisers say that this is the meaning but that there is a little ambiguity in the words "unreasonable rates". Some people, as you know, Sir, are fond of litigation and they may go to the Tribunal and begin to argue that an "unreasonable rate" may include the level of class rates also. It is to avoid that ambiguity that the position is made clear. I do not think there is any change whatsoever in the provision.

Mr. Deputy-Speaker: May I know if the hon. Member wants to enlarge the scope of the powers of the Tribunal?

Pandit Thakur Das Bhargava: The powers are already contained in section 41 in the Act of 1948. I do not want to enlarge them. On the contrary the new Bill seeks to shorten those powers.

Mr. Deputy-Speaker: The hon. Minister feels that the revision of class rates, schedule rates and terminal and other charges was in the peculiar jurisdiction of the Central Government, that the Tribunal had nothing to do with it and that he is only clarifying the position. But if the hon. Member says that the meaning is otherwise and that this is unnecessary it is another matter.

Pandit Thakur Das Bhargava: Sir, there were some legal authorities existing when the Bill was passed.

The Honourable Shri K. Santhanam: There was no authority at that time.

Pandit Thakur Das Bhargava: Sir, after all there is no justification why a Tribunal should not be given these powers. The Tribunal has been given the other powers in section 41. There is no reason why the power should be taken away from the Tribunal when once they have been given the powers. Let them change section 42.

Mr. Deputy-Speaker: The hon. Minister said that they never exercised these powers but to clear any doubt in the interpretation of the section he is giving the details "station to station rates or wagon load rates which are unreasonable etc."

Pandit Thakur Das Bhargava: Of course no Tribunal exercised the powers under section 41 before because though the powers were granted originally the Tribunal came into existence by virtue of the 1948 Act. I don't see any reason why these powers should be taken away.

The Honourable Shri K. Santhanam: It is not a question of taking away any powers. But my friend wants the ambiguity to continue so that the power may be extended by the Tribunal. I do not want that ambiguity to continue and I do not want to bring in another Bill to remove that doubt.

Mr. Deputy-Speaker: The hon. Minister is not willing to accept the amendment. Does the hon. Member want to press his amendment?

Pandit Thakur Das Bhargava: If he is not accepting it, I need not press it.

Mr. Deputy-Speaker: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clauses 6 to 9 were added to the Bill.

Pandit Thakur Das Bhargava: Sir, I beg to move:

"That in clause 10 of the Bill, in sub-section (1) of the proposed new section 74A of the Indian Railways Act, 1890, for all the words occurring after the word 'destination', the following be substituted:

'directly resulting from such defective condition or defective packing'."

In regard to this amendment I have to submit that whereas it may be quite true, as Mr. Santhanam has contended, that in the owner's risk notes certain provisions were there which may have been substantially the same as those which are contained here, it is absolutely clear, as is borne out by the speeches of the other hon. Members, that when these owner's risk notes are got signed by the consignors the consignors never read them. It is well known that they are written in such style that no consignor can read those notes. It is only

when the matter comes to court that they are read by lawyers and interpretations are placed on them. All the same, if my hon. friend Mr. Santhanam, as he has expressed, is the same Mr. Santhanam as before—and I have no doubts in the matter, we have the same confidence in him as we had before; he has certainly not changed, in this matter also—he could have, if he liked, shortened the responsibility of the Railways still further, I know that—all the same I would respectfully beg of him to consider that there is no difference between a procedural Bill and a substantive Bill. When the matter is brought to your notice why should you wait till Doomsday when you will have a comprehensive rectification of the whole railway law? If he agrees with the remarks of the other members in regard to the question of onus of proof let him have the courage of his conviction and make up the deficiency in this Bill. I can never imagine that Mr. Santhanam can have any less desire in safeguarding the rights of the public than we members have here. As a matter of fact we look up to him for safeguarding these rights. If our interpretations are correct and our fears are not unfounded I would beg of him not to give more weight to this one aspect namely that it is a procedural Bill but to look to the substance. This has come before the Assembly though it was implicit before, but now it is explicit that the owner's risk note is certainly a piece of artistic fraud, I should say. People do not understand what the responsibilities are. We always think that the goods booked will always reach their destination, whatever is contained in the note. It is only when the thing is stolen that one remembers the risk note he has signed and he is taken aback, I should say. He does not know what he has signed. Let us be quite fair, let us look at the question in a square manner. If the law has imposed a responsibility on the Railway under section 72, let us live up to that responsibility. What does it matter if you take signatures from a man while you know full well that it does not carry his consent? Mr. Santhanam knows too well how these signatures are taken. I don't accuse Mr. Santhanam of trying to have a dig at us in bringing forward this Bill. As he says it may probably be perfectly true that the provisions of the owner's risk note were already there. But now you want our consent to these measures which we cannot agree to. The provisions may have been there and the people may not have cared for them—it is folly to be wise when ignorance is bliss. But now the thing has come to us for our consent. I ask, is there any Member in the House who can agree to this lessening of the responsibility of the Railway as compared to the responsibility under Section 72? It should not be the policy of the Legislature that the Railway may be armed with such large powers that there may not be any responsibility even if negligence were proved? If we go to the original principles and the facts as they are and the equities as they should be, then we have to come to the conclusion that something is rotten in the present day policy of the Legislature or the present day practice of the Railway Administration. I therefore submit that instead of taking shelter in saying that previously the practice was this, he should, if the practice was bad, now take away this Bill and bring another Bill. Why wait for five or ten years? If the thing is wrong today, it will be wrong tomorrow. Mr. Santhanam said I am really attacking the principles of the Railway administration. That is perfectly right, I said so in the Select Committee also. When the Bill is before us if we put our imprint on it, then it is our imprint for all time. If we subsequently bring another measure of this kind then there will be the difficulty that we agreed today. What is the justification for saying that now we agree and after two years we won't agree? How can the question of the principle of Railway administration be differentiated from the procedural question? I would go to the original principles and have my say on the matter and tell Mr. Santhanam that though he may be right on the technical point that previously this law was there, so far as the moral question of the justifiability of this is concerned, I do submit that he is not justified in bringing forward and getting this measure passed by the House.

[Pandit Thakur Das Bhargava]

He said the business people were in his favour. I have got here the opinion of the Federation of Indian Chambers of Commerce and Industry. I do not want to take much of the time of the House by reading it—it is a long document. They sent it to all Members of the Select Committee, and in regard to Sections 74A and 74D their opinions are substantially the same as what I have submitted. They may have agreed to the elimination of the risk notes. "Take away all your risk notes. I pay you the hire which you demand and I demand that I get my things at the destination". That is the right thing. The Federation may agree to abolish the risk notes but so far as the responsibility is concerned, this is what they say:

"Clause 74A.—This Clause provides that when goods tendered for carriage by a railway are in bad condition or are defectively packed, the Railway Administration shall not be responsible for any damage, leakage, wastage or any loss arising from the same except upon proof that the loss was due to misconduct on the part of the Railway Administration or any of its servants. In this connection, the Committee are informed that, under Risk Note Form A, which has to be executed by the consignors, the consignor has to declare, in case the railway considers the goods to be defectively packed or in bad condition, the packing of goods to be as such, and that the consignor undertakes to hold the Railway Administration harmless and free from all responsibilities for the condition, in which the goods may be delivered to the consignee. It may be pointed out here that when the consignors are asked by the railway to give the necessary remarks in regard to the packing conditions in the forwarding note, the consignors, even though the materials might have been securely packed, cannot protest because in case they do, they stand to lose the wagon space and thus take the risk of the goods being delayed. It is very difficult, if not impossible, for the consignors to prove that the loss during transit was due to misconduct on the part of the Railway Administration or any of its servants. The consignors have practically no means to prove the misconduct on the part of the Railway Administration. It is, therefore, suggested that, instead of consignors having to prove that loss or damage was due to misconduct on the part of Railway Administration, it should be the responsibility of the latter to prove that loss or damage was directly attributable to the conditions noted in the Forwarding Note."

That covers exactly the amendment which I have suggested. If the goods are defectively packed, then as my friend Mr. Krishna Chandra Sharma stated, if the Railway accepts goods which are defectively packed, then they are as much contributive to negligence. Why should they accept these goods? If they accept these goods, then the very argument which my friend raised regarding contributive negligence comes in. One contributive negligence is equalled by the other and the principle of section 72 should hold the field. In the present condition all that is required is that when goods that are defectively packed deteriorate or are damaged due to the defective packing, then the responsibility must be laid at the door of the consignor. But if the Railway have failed to take that caution and care which the law imposes on them, there is no occasion for our saying that the whole effect of it, to whatever cause the loss is due, should be laid at the door of the consignor. The Railway should accept that responsibility and discharge it. In my amendment I only say that these words may be inserted:

"directly resulting from such defective condition or defective packing." I don't mention the consignor there, but all the same because the goods are defectively packed there is no occasion for the Railway to come up and say, "We are absolved from all our responsibility". There is no earthly connection between the two. If the goods are bad and become worse owing to defective packing, the consignor takes the consequences. But it does not mean that the goods were bad and therefore the Railway can play with them and deal with them in any manner. The defectiveness of the thing has no relation to theft etc. In matters like this when it is a question of policy, the law should be clear that the logical consequences of bad packing may be laid at the door of the consignor but there should not be a premium on acts of misconduct and negligence.

Sir, my submission is that this amendment be accepted.

The Honourable Shri K. Santhanam: Sir, I don't know if you would permit me to begin again to explain the entire principles on which the Bill is based. According to Pandit Thakur Das we cannot bring in a minor Bill at all. Sir, when we bring in a minor Bill to rectify certain defects, we cannot go into the larger questions every time and take out everything by the root and put everything in anew. The Railways are a very complicated undertaking. I don't think even Pandit Thakur Das will claim that when things are delivered in a defective condition the Railway should be responsible for the entire loss. On the other hand, he may ask why the Railways should take goods in a defective condition. Unfortunately, as my friend Mr. Gokulbhai Bhatt has explained, a large number of people in this country have not got the mechanical means of regulation packing; they pack in the manner which is just available to them. Either you must say that however defective it may be, the Railway should automatically accept the goods and take the full responsibility. Then everybody will bring leaky tins and claim for the full tin at the other end, which is not possible and which no Railway will accept, or when a defectively packed thing is given the Railways may refuse to accept, in which case all the people, especially the rural people, will suffer tremendously. Therefore, the present provision is a *via media* which circumstances have practically forced on the Railways. If between two ideological extremes we forget the actual existing conditions, I do not think we shall be doing any good. As regards this particular amendment, I have already explained how it is absolutely impossible to enforce it. When there is some defective packing and there is some loss, what is the procedure by which we can determine that so much of it is directly due to the defective condition of packing and so much to other causes? If the thing is delivered then there is no proof; if it is not delivered then it deteriorates. So, in a thing which is moving, which has to be delivered as soon as it arrives at the destination, it is impossible to enforce this amendment. If you put it in, it will either force the Railway Administration to stop taking defectively packed things, or at the other end no stationmaster will deliver any goods unless the consignee gives it in writing that everything arrived in safe condition. Otherwise, he will say, "Go to a Court and establish to what extent the loss is due to defective packing" and will then keep the goods in the railway goods shed. I do not think that is what Pandit Thakur Das wants. I think if any businessmen in this Assembly are consulted, they will know that this particular amendment is wholly impracticable.

Mr. Deputy-Speaker: If the Assembly wants to discuss this amendment, I will put it formally before the House.

Shri Prabhu Dayal Himatsingka (West Bengal: General): I just want to ask one question of the hon. Minister. I want to draw his attention to the fact that certain booking clerks make a note on the railway receipt even when the goods are properly packed—"insecurely packed—liable to damage".

The Honourable Shri K. Santhanam: I may cut that question short by pointing out that under this Bill, the sender has to make the statement saying that it is defectively packed. Unless the sender's signature is there, no railway clerk will be allowed to say it is defectively packed or anything. "Has been recorded by the sender" is the exact wording.

Mr. Deputy-Speaker: What is the object in obtaining the signature of the sender if in addition he has to prove that there is negligence on the part of the Railway?

The Honourable Shri K. Santhanam: It is not open to the Railway to declare a package defective. It is only when the sender accepts that it is defective.

Shri Mahavir Tyagi: The sender will never sign it. He will refuse to sign it.

The Honourable Shri K. Santhanam: If he does not sign it, then the Railways may refuse that package.

Sardar Bhopinder Singh Man (East Punjab: Sikh): Who is the authority to say that it is defectively packed?

The Honourable Shri K. Santhanam: It is only where there is agreement between the Railway and the consignor that the consignor will agree to endorse it. If there is a dispute, it is open to the consignor to appeal to the higher officials saying that it is packed according to regulation, yet it is being refused, and then the higher official, if he is convinced, will ask the railway official to accept it. It is all very difficult in administration, but we cannot change the morality of railway administration by provisions in this Bill.

Shri Mahavir Tyagi: Does the hon. Minister seriously feel that a consignment on which the consignor has certified that it is not properly packed will really reach the destination? He might much rather send it by money order.

The Honourable Shri K. Santhanam: According to 74-D a consignment even if it is defectively packed must reach the destination.

Shri Mahavir Tyagi: Whether the contents are there or not? The package will reach without the contents.

The Honourable Shri K. Santhanam: If he says it is defectively packed and there is some leakage, then we cannot help it. I do not see what we can do in the matter.

Mr. Deputy-Speaker: It seems to be the state of the law at present that whatever might have been done, the burden is upon the consignor to prove negligence on the part of the Railway Administration. The hon. Member evidently wants to know why the hon. Minister is so anxious to continue a clause which does not seem to be fair, proper or reasonable.

The Honourable Shri K. Santhanam: I explained that the question of Railway responsibility is a big issue which is being debated in all other countries. I cannot give an undertaking off-hand to overhaul the entire question of rights and responsibilities. As I said, in the case of defective packing, to put the whole burden on the railway for all losses will be unfair to the public and public revenues. This is a matter which has to be investigated by a proper enquiry committee and when the Railway Act comes for revision that will be the proper occasion to discuss this question. We cannot simply throw enormous burdens on the railways which they cannot undertake. I am only continuing the *status quo*. The only difference is there would not be any risk notes. The responsibility which is now lessened by risk notes is provided in the Statute itself. That is all that the Bill does.

Shri Mahavir Tyagi: Why not make the responsibility fifty fifty.

Mr. Deputy-Speaker: Let there be no talk across the Benches. In view of the fact that the hon. Minister thinks this is a procedural matter and contemplates bringing forward a Bill later on after sufficient investigation, may I know if the hon. Member would insist upon putting his amendment to the House?

Pandit Thakur Das Bhargava: I leave it to you, Sir.

Mr. Deputy-Speaker: Personally I am not in favour of this clause, but that is another matter.

Shri B. Das (Orissa: General): Better place it before the House. You can tell the Minister. He is here.

Mr. Deputy-Speaker: I cannot interfere in a matter of this kind. All that I can do is, whenever there is an occasion, where the substance is not carried out by form, I can suggest to the hon. Minister what the other Members have in mind, but when it is clearly a matter involving substance, I cannot interfere. I have no right to do so. Therefore the amendment is not pressed.

Before I call upon the other amendments of Pandit Bhargava, which I find are all of the same level, I may mention that notice of an amendment to sub-clause (1) of this clause has been received at 10.45 a.m. this morning from Sjt. Chaliha and Shri Lakshminarayan Sahu. Is the hon. Minister agreeable to accept it?

The Honourable Shri K. Santhanam: I have not got a copy.

Sjt. Kuladhar Chaliha: It was given yesterday, Sir.

Mr. Deputy-Speaker: No. Notice was received this morning at 10.45 a.m. But if the hon. Minister is agreeable to accepting it, there is no harm. I will allow it.

The Honourable Shri K. Santhanam: I have just now seen the copy of the amendment. It is very similar to one of the amendments tabled by Pandit Bhargava. It simply puts into one clause all the questions of legal responsibility which Pandit Bhargava has been explaining so many times.

Mr. Deputy-Speaker: I quite agree with the hon. Minister. It covers the same ground as the amendment of Pandit Thakur Das Bhargava. There is no difference except that it puts the same point in different form. I rule it out. Pandit Bhargava may move his amendment.

Pandit Thakur Das Bhargava: Sir I beg to move:

"That in clause 10 of the Bill, in the proposed new section 74B of the Indian Railways Act, 1890, the following words be added at the end:

'except upon proof of negligence or misconduct on the part of the railway administration or of any of its servants.'"

I do not see how this amendment also can be objected to. After all, it is quite clear that 74B visualises that the person whose goods are carried has agreed. If such goods as would ordinarily be sent in closed vehicles are sent at the request of the consignor in open vehicles and if there is deterioration or damage or destruction caused in transit, the consignor takes the consequences. But if there is any misconduct or negligence on the part of the Railway Administration, my submission is that there is no use trying to give protection to the railways simply because the burden of proof is upon the consignor. So far as the question of negligence is concerned, the hon. the Mover of the Bill said that the risk notes only speak of misconduct. But so far as the legal position is concerned, if negligence is proved, the Railways are as much liable as in the case of misconduct.

The Honourable Shri K. Santhanam: May I point out that so far as risk note in covered wagons, is concerned, there is no misconduct or anything? It is absolute as it is.

Mr. Deputy-Speaker: Why?

The Honourable Shri K. Santhanam: So far as covered wagons are concerned, if a person sends by open wagons what should be sent by covered wagons, railways under the present risk note do not take any kind of responsibility. We are only continuing the same position.

Pandit Thakur Das Bhargava: May I just give an example? Supposing sugar or wheat is sent in open wagon and there is theft while the trains are moving. The railways do not appoint any watchman. No protection is

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given. No precaution is taken. Supposing there is no tarpaulin used for protecting the wagon, it is negligence on the part of the railway. Suppose the Station Master himself, after loading takes to his house four or five bags of sugar. It is clearly misconduct. My submission is that in the case of occurrences of this nature, there is no reason why a consignor who puts his signature only because he agrees in a state of helplessness to see his goods carried should undergo loss. By reason of the goods being carried in open wagon, I can understand that it must not be the responsibility of the Railways, but in regard to misconduct or negligence the railway cannot be protected.

Shri C. Subramaniam (Madras: General): May I point out that it only says:

"the railway administration shall not be responsible for any destruction, deterioration or damage which may arise by reason of the goods being so carried."

As far as the other liability by negligence or misconduct is concerned, it is always there. It is not abrogated. I do not see how it is abrogated.

Pandit Thakur Das Bhargava: I wish the interpretation of the hon. Member had been accepted by the Mover of the Bill.

The Honourable Shri K. Santhanam: It is not my business to interpret the law. This is the present position. We cannot afford to change the existing position for the simple reason that we cannot take the entire responsibility on ourselves. Suppose valuable items like wheat, rice, sugar, or even salt, are sent by open wagons. It is not possible for us to post armed guards to every wagon. It is even just possible that the goods may be pilfered in the process of shunting, or at a wayside station. It is humanly not possible for the Railway administration to post guards at every place.

The result of the amendment proposed by Pandit Thakur Das Bhargava would be that Railways will be instructed not to allot open wagons and the people will suffer. It is not obligatory on the part of anyone to send their goods in open wagons. It is only in certain contingencies—for instance where a man wishes to have his goods moved quickly rather than storing them—that a man takes the risk of sending them in the open wagons. Therefore, by putting more responsibility on the Railways the public get less facilities. That will be the result. We for our part don't want that to happen. But when once the Railway has to pay more damages, naturally the Railway Board will pull up the Railway Administrations and ask them why their damages are mounting up. We would, therefore, ask them not to take any unnecessary responsibility.

We are not bound to supply open wagons—there is no liability on the part of the Railways to do that. We do it just to help the consignor. If you want to make the Railways responsible, we won't help the consignor—that is all.

Pandit Thakur Das Bhargava: When questions of that kind go before the courts and there is a question of interpretation of the onus, the conditions which are contained in the risk note are not absolute. The courts have to pronounce whether the conditions that are laid down are good enough or not. It appears that there is no mention of negligence in that owner's risk note relating to section 74B.

The Honourable Shri K. Santhanam: In any case we have included negligence in this. Therefore the point does not arise. So far as the present Bill is concerned, we have not changed the position as it was. We have simply kept the position intact.

Prof. N. G. Ranga (Madras: General): What is the position, Sir? Does the amendment that is sought to be made by the hon. Minister help those people who wish to send their goods to some other place, or does it worsen their position?

The Honourable Shri K. Santhanam: It definitely helps the consignors. Suppose a merchant wants to move some commodities in summer and there are not sufficient number of covered wagons available. The consignor welcomes the idea of despatching them in open wagons.

Pandit Thakur Das Bhargava: Why, people utilise open wagons in winter and even in rainy seasons because they are helpless.

The Honourable Shri K. Santhanam: How can we remedy the helplessness of a person if we have no wagons.

Shri H. V. Pataskar (Bombay: General): The Railways do have wagons, but do not allot them.

The Honourable Shri K. Santhanam: Sir, I think it is a wrong allegation to make that the Railways have got covered wagons but do not supply them to the public.

Shri H. V. Pataskar: When a man agrees to send his goods by open wagons, it is because closed wagons are not available. Having accepted that position, naturally the normal liability for negligence ought to be on the part of the Railways.

The Honourable Shri K. Santhanam: According to the interpretation of Shri Subramaniam that responsibility is there.

Shri H. V. Pataskar: Sir, the wording used here is "by reason of the goods being so carried." Suppose somebody steals the goods *en route*. It will be open to the railways to argue that it happened because the goods were carried in an open wagon.

The Honourable Shri K. Santhanam: I am inclined to think that the hon. Member's interpretation is probably a more correct one. But does the hon. Member want that open wagons should be systematically refused to everyone? That will be the result. I do not think any businessman wants that to happen.

Pandit Thakur Das Bhargava: All that we want is that the statutory liability of the Railways should be continued. Suppose the loss happened not because it was carried in an open wagon, but because of ordinary negligence on the part of the Railways, then the Railway Administration should be made liable for payment of compensation.

The Honourable Shri K. Santhanam: The word "negligence" is too wide a term. When things are carried in an open wagon, unless we put an armed guard in every wagon, the consignor may say that we have not taken proper care. A man who takes the risk of sending a thing by open wagon should take the responsibility for it. The entire responsibility of sending a thing by open wagon should squarely rest on the consignor. Otherwise we will have to issue a flat order to all the Railway Administrations "Never give open wagons; for goods ought to have to be sent by covered wagons." That will only harm the business community.

Shri H. V. Pataskar: Or at least the hon. Minister can accept an amendment to the effect "merely by reason of the goods being so carried."

The Honourable Shri K. Santhanam: That will only make the clause wider and I am not prepared to accept it. My own feeling is that when a consignor chooses to send his goods by an open wagon, he must take all the incidental responsibilities.

Mr. Deputy-Speaker: Does the hon. Member wish me to put his amendment to the House?

Shri Raj Bahadur (United State of Rajasthan): Sir, the hon. Minister just now observed that he is not bound to interpret law here; but he is definitely bound to interpret and explain the Bill that is before the House.

Mr. Deputy-Speaker: The language that has been used in a Bill which has been sponsored by a Minister ought to be explained by a Minister.

The Honourable Shri K. Santhanam: I have already explained that, according to my interpretation, the entire responsibility for any damage rests on the consignor. I am prepared to stick to the words—that is the meaning according to our legal advice—and if the court interprets it otherwise I am not responsible.

Mr. Deputy-Speaker: The hon. Minister must make his point clear. The hon. Minister said that it is open to the interpretation which Mr. Subramaniam had suggested. Instead of having these two interpretations and leaving it to the courts to decide, it would be better if the hon. Minister makes up his mind and says that where a consignor chooses to send his goods in an open wagon the responsibility is his irrespective of the reason of the loss or damage; that notwithstanding anything that may happen, irrespective of any negligence, the Railway administration is not liable to any damages. Illusory and indecisive language ought not to be allowed in the House.

The Honourable Shri K. Santhanam: With due respect to you, Sir, we have to take the opinion of our legal advisers and frame our Bill according to their advice. According to their advice the meaning is clear. I cannot, however, prevent the courts from interpreting any law according to their discretion. We can only do the best according to our lights.

Prof. N. G. Ranga: In view of this prolonged discussion that we have had first which later on degenerated into a multi-lateral one, may I suggest, Sir, and in view also further of the fact that the whole issue hinges or hangs on just that one word 'only' whether it should be inserted or not, may I suggest that the further discussions on this Bill may be postponed till tomorrow, so that the Honourable Minister as well as the Members concerned may have another opportunity of discussing this matter, without any heat and may be able to come back again to this House with some solution which would be more generally agreeable to this House?

Mr. Deputy-Speaker: I would like to know what is the reaction of the hon. Minister.

The Honourable Shri K. Santhanam: Of course, if the House wants, I cannot object to it, but I do not think there is any purpose going to be served because I am not prepared to extend the responsibility of the Railway. If hon. Members want to make it clear, it will restrict it further and if the House is prepared, I have no objection.

Mr. Deputy-Speaker: If there is any purpose in negotiating, I would like to allow this Bill to stand over.

The Honourable Shri K. Santhanam: Mr. Alladi Krishnaswami Ayyar says the words "by reason of the goods being carried" may be omitted.

An Honourable Member: But it will make the thing worse.

Mr. Deputy-Speaker: I would like to know the sense of the House Order. As the Bill is set out here, it is more a procedural Bill and it raises a number of points here though it has emerged out of the Select Committee. I find a number of amendments have been tabled and a number of hon. Members are taking part in it. If it is the wish of the House that it should stand over so that overnight there may be some negotiations regarding this, I have no objection.

Some Honourable Members: Yes.

Mr. Deputy-Speaker: Then this clause will stand for consideration tomorrow. There are no amendments to clauses 11 and 12.

The question is:

"That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

Clause 12 was added to the Bill.

Pandit Thakur Das Bhargava: Sir, I beg to move:

"That in clause 13 of the Bill, the proposed new section 82H of the Indian Railway Act, 1890, be re-numbered as sub-section (1) and the following new sub-section be added as sub-section (2):

"(2) Nothing contained in the preceding sections relating to the right of any person to claim compensation shall affect the right of any person or his heirs to maintain an action and recover damages from the railway administration for any injury or loss which he or his heirs, in case of his death, may have sustained on account of any accident or collision between trains on account of the wrongful act, neglect or default on the part of the railway administration or of any of its servants, except in cases where application for such compensation has been made and decided on merits by the Claims Commissioner."

As already submitted for the consideration of the House this is one of the main objections that I had to this clause. When the section 82(a) was considered in the House, as I submitted already, some speeches were made by Mr. Lalchand Naval Rai and Sir Cowasjee Jehangir and then the speech of the hon. Member who was in charge of the Bill was also made but in all these discussions this point was never brought out that as a matter of fact the Bill is taking away the right and with your permission I may just quote you, when we were considering another Bill, in respect of this matter, you were pleased to bring out this point at the time that section 82(a) did not take away the common law right of every person to claim damages against the Railway in such cases. Now, if you kindly look at the provisions of 82(a) and the proceedings of the Assembly at that time, it would become quite clear that it was not the intention of 82(a) to take away the ordinary common law right of the citizen in respect of such loss or injury. Now, Sir, section 82(f) (5) and this section give rise to a necessary implication that if this amendment is not made, it will take away the rights of the ordinary citizen. It may be that my interpretation may be wrong, but I am supporting this interpretation because the hon. Mover of the Bill when he replied at the consideration stage, did not accept the fact that this Bill does not take away that right. On the assumption that if this amendment is not accepted then the right will be taken away, I beg to submit that the reasons advanced by the hon. Mover of this Bill in regard to taking away the rights are not sound. It was said in the first place that it is only one case in a lakh of cases in which such a claim is made. I join issue on this matter. I am a student of law. I have seen many cases going to courts and even to the high courts, wherein decrease were made in respect of such injury or death. It is not unoften that a person goes to a court of law

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and gets his decree. In all cases where such cases came to the court before the question of section 82(a) came, there was of course a decree on merits. - It is wrong to say that it was not brought. The simple question is that in case a person claims more than Rs. 10,000 and wants to establish the right by mere common law and brings his case after three months or more, should he be denied this right? The only reason that has been advanced by my hon. friend is that if both these cases co-exist, that is the right to claim from a Claims Commissioner as well as a right from the court, there will be multiplicity of proceedings. I do not think that it is beyond his ingenuity to find out a way. If a person claims here, his rights can be considered here and if in another place he claims certain things there is nothing wrong in it.

I like this provision only because it is a speedy remedy and there is an arrangement for an interim compensation but at the same time it does not mean such provision should take away the rights of the common man which he has been in enjoyment for a number of years. May I enquire what the position was before section 82A was enacted and why has this provision of Claims Commissioner come after such a long time, if the Railway Act was enacted in 1890. This rule or this right which the people have enjoyed for a long time should not thus be taken away summarily and there is no reason why it should be taken away. You can benefit the people if you want to benefit them by speedy proceedings and in a summary manner but any person who agrees to travel by railway if he thinks that his injuries have cost him more or his life is more precious, there is no reason why he should not get adequate compensation. This argument that in exceptional cases you will give adequate damages is going against the provision. I am not convinced of the utility or the advisability of taking away this common law right from the ordinary citizen. It may be said that it is only a loss to the rich man. It is not a question of the rich man or the poor man. If you are so generous minded, why not pay Rs. 10,000 to every person, in case of death or injury. You yourself have put the upper ceiling. If it is a democratic piece of legislation I can understand, but then.....

Shri C. Subramaniam: Therefore there should be no restriction at all.

Pandit Thakur Das Bhargava: The provision today is that the upper ceiling is given but nowhere is it laid down that every person shall be given in case of death, damage or injury so much, for a leg injury so much. If it is a uniform rule, then I can understand your argument and when you yourself are not providing a uniform rule, why should you take away the right of a person? It may be that Rs. 10,000 may be a very inadequate compensation and in the case of persons on the common level there is no reason why that right should be taken away. You have conferred this right. All right. I congratulate you on this occasion. I therefore suggest that this amendment should be accepted.

Mr. Deputy-Speaker: Amendment moved:

"That in clause 13 of the Bill, the proposed new section 82H of the Indian Railways Act, 1890, be re-numbered as sub-section (1) and the following new sub-section be added by sub-section (2):

"(2) Nothing contained in the preceding sections relating to the right of any person to claim compensation shall affect the right of any person or his heirs to maintain an action and recover damages from the railway administration for any injury or loss which he or his heirs, in case of his death, may have sustained on account of any accident or collision between trains on account of the wrongful act, neglect or default on the part of the railway administration or of any of its servants, except in cases where application for such compensation has been made and decided on merits by the Claims Commissioner."

The Honourable Shri K. Santhanam: Sir, I have already explained. I may simply quote the opinion of Sir Satyendra Roy on this section 82A of the Railway Act. He said:

"On the point as to whether the liability of the ordinary law still subsists, of course the answer is in the negative."

This Bill definitely limits the liability of the Commission to the figure mentioned in clause 2.

Pandit Thakur Das Bhargava: What is my friend reading from?

The Honourable Shri K. Santhanam: This is from the speech of Sir Satyendra Roy in the Council of State on the insertion of section 82A.

Pandit Thakur Das Bhargava: I would like my friend to read from the speech of the Mover of the Bill. I have some of his speeches in my possession.

Mr. Deputy-Speaker: How can the hon. Member object to the reading of that speech?

The Honourable Shri K. Santhanam: That is a legal opinion on the purely legal aspect of the matter. He went on further to observe:

"It is obvious that the financial burden of the railways could not be indefinitely increased. If you are going to accept a liability in all cases where there has been no negligence, it is reasonable that there should be some set-off by having the liability limited to cases where negligence has been proved."

Sir, this is an essential principle. The Railway is not a Solicitor's office. It cannot be engaged in carrying on litigation in all cases of accidents. We have provided a very equitable remedy in the case of accidents. The hon. Member wants that we should also provide for endless litigation which will make the railways a lawyer's paradise. I do not think it should be done.

As I have already suggested, people who place a very high value on their lives are free to insure themselves for unlimited sums. They want to pay an ordinary ticket fare and get an insurance for an unlimited amount. That is what the proposal amounts to. I do not think I can accept the amendment.

An Honourable Member: Will not the railway be liable in case of death even if there is no negligence? Is there any additional liability cast on the railways in the suggestion of Pandit Thakurdas Bhargava?

The Honourable Shri K. Santhanam: He is wrong. Even if there is no negligence we are liable to pay up to Rs. 10,000.

Shri Mahavir Tyagi: If a person dies suddenly, will you have to pay Rs. 10,000?

The Honourable Shri K. Santhanam: Here is a limited liability up to Rs. 10,000. But for section 82A those who go to court to claim compensation will not succeed unless they prove negligence on the part of the railways. That is not the present provision on the railways. Therefore that will be an absolutely different claim and that is not permitted by the present provision.

Shri Mahavir Tyagi: May I get one point clarified? Does Pandit Thakur Das Bhargava want that every one should be paid Rs. 10,000 even if he commits suicide?

Mr. Deputy-Speaker: That question does not arise.

Pandit Thakur Das Bhargava: When the railway is guilty of negligence and misconduct then alone a person can sue them.

Mr. Deputy-Speaker: Is it open under this clause for a person to go before a Commissioner or to a court?

The Honourable Shri K. Santhanam: There is only one remedy and that is to go to the Claims Commissioner and the limit of compensation is Rs. 10,000. We are shutting out all other things as the only condition on which we can provide a remedy. The Claims Commissioner may grant any amount up to Rs. 10,000.

Shri Mahavir Tyagi: Suppose a man is injured, he must be paid some compensation.

The Honourable Shri K. Santhanam: Yes.

Shri Mahavir Tyagi: If Mr. Kamath commits suicide, will he get compensation?

The Honourable Shri K. Santhanam: If the suicide and an accident coincide, his heir may get some compensation.

Mr. Deputy-Speaker: I do not think my hon. friend the Minister wants to restrict the amount of compensation to Rs. 10,000. There are other ways open to one for getting sufficient compensation by way of insurance, etc. That is the object of the Bill. I do not think the Mover wants to press his amendment.

The Honourable Shri K. Santhanam: That is the object of the Bill. The amount is already restricted by section 82A. But as a quick remedy we have provided this.

Mr. Deputy-Speaker: It is already there in the existing Act. Now a cheap remedy has been given.

Pandit Thakur Das Bhargava: The remedy is there in section 82A.

Mr. Deputy-Speaker: It is now limited to Rs. 10,000. Does the Honourable Member wish me to put the amendment to the House?

Pandit Thakur Das Bhargava: You may put it to the House.

Mr. Deputy-Speaker: I will put the amendment to vote.
The question is:

"That in clause 13 of the Bill, the proposed new section 82H of the Indian Railways Act, 1890, be renumbered as sub-section (1) and the following new sub-section be added as sub-section (2):

(2) Nothing contained in the preceding sections relating to the right of any person to claim compensation shall affect the right of any person or his heirs to maintain an action and recover damages from the railway administration for any injury or loss which he or his heirs, in case of his death may have sustained on account of any accident or collision between trains on account of the wrongful act, neglect or default on the part of the railway administration or of any of its servants, except in cases where application for such compensation has been made and decided on merits by the Claims Commissioner."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 13 stand part of the Bill.

The motion was adopted.

Clause 13 was added to the Bill.

Clauses 14, 15 and 16 were added to the Bill.

Mr. Deputy-Speaker: The rest of this Bill will stand over till tomorrow.

BUSINESS OF THE HOUSE

Shri Jaspat Roy Kapoor (U. P.: General): May I make a request, Sir. The next item that may be taken up may not be item 14 which, I suppose, is going to be sponsored by Sri N. Gopalaswami Ayyangar and that the item next after that may be taken up. If this Bill is taken up today, it is not likely to be finished today and will have to be continued tomorrow. Many of us who are interested in it would not be here tomorrow. We have to attend a Provincial Congress Committee meeting. I had a talk with the hon. Minister in charge of the Bill. The Chief Whip is also agreeable to postpone this item for consideration next week.

Mr. Deputy-Speaker: Does the hon. Minister in charge of the Bill, for any reason, think that it is desirable to postpone it for tomorrow?

The Honourable Shri N. Gopalaswami Ayyangar (Minister of Transport and Railways): So far as I am concerned, I am quite willing to meet the convenience of any large section of Members who want this postponement to be made. I would not stand in their way. Surely this Bill cannot be finished today. We shall have to go on with it tomorrow. But if any large number of Members who are interested in the Bill wish it to be postponed, I shall have no objection.

Shri Jaspat Roy Kapoor: I also understand that the hon. Minister in charge of the Bill proposes to introduce some new amendments of which we have had no formal notice.

The Honourable Shri N. Gopalaswami Ayyangar: That will not be a correct way of putting it. As a matter of fact, since notice of the various amendments had been received, I have had conversations with those responsible for those amendments; and we have certainly agreed upon certain different amendments which can be moved and accepted on both sides. Those amendments will certainly be moved when the amendments of which notice has been given are put before the House, but as I said, I do not want to stand in the way of this thing being postponed till next week.

Mr. Deputy-Speaker: May I know if those agreed amendments are ready?

The Honourable Shri N. Gopalaswami Ayyangar: They are ready.

Mr. Deputy-Speaker: Then what is the objection to our going on with it today.

Prof. Shibban Lal Saksena (U.P.: General): We want to go for a conference.

Shrimati G. Durgabai (Madras: General): In view of the fact that more important Bills will be coming next week and there may not be much time for this Bill to go through, I suggest that the fact that a few members will be absent tomorrow need not prevent us from taking it up today. I suggest that the House accepts the proposal that it be taken up today.

Shri Jaspat Roy Kapoor: The Hindu Code Bill is coming up only on Monday and Tuesday.

Shri Mahavir Tyagi (U. P.: General): I want to make a representation to the Chair. In fact the speed at which Bills are thrown at us, is too much for me at least. We are getting such an amount of legislation that every time one or two Bills come up for discussion, it becomes very difficult for us to go at that speed. I submit that before these Bills are taken into consideration by the House, you might be pleased to see whether we can really do any justice to the legislation that is being undertaken.

Mr. Deputy-Speaker: In spite of the speed with which things are supposed to be rushed, there are something like one hundred amendments, and I do not

[Mr. Deputy-Speaker]

know if more time is granted, we would not have a larger number of amendments. Why not go on with this Bill for the rest of the day and then continue it tomorrow.

Sardar Bhopinder Singh Man (East Punjab: Sikh): I want to submit, Sir, that people coming from East Punjab have got very important amendments to this Bill and have got very acute feelings about it. It so happens that most of us who are interested in this Bill will be absent tomorrow. It is only for that reason that we would like this to be taken up later.

The Honourable Shri K. Santhanam: I have got a simple resolution standing in my name. It can be finished within these fifteen minutes.

An Honourable Member: It is not so simple.

Mr. Deputy-Speaker: One hon. Minister says that he is not insistent on his Bill being taken up today, and another hon. Minister wants to go forward with his resolution. So, let him move his resolution.

The Honourable Shri N. Gopalaswami Ayyangar: Before that resolution is moved, I would like you, Sir, to fix a definite date for the taking up of this Bill.

Mr. Deputy-Speaker: Tomorrow.

The Honourable Shri N. Gopalaswami Ayyangar: Only I do not want it to hang in the air.

Shrimati G. Durgabai: I do not see any objection to this Bill being taken up tomorrow.

Mr. Deputy-Speaker: After all I do want sufficient discussion. Several of the Members who are taking an interest in this Bill say that they would be unable to be present here tomorrow, and I should think that it is only reasonable that we should not hustle them. So, let this stand over and it is for the Government to fix a date after the Hindu Code Bill is taken up.

The Honourable Shri N. Gopalaswami Ayyangar: If you direct, Sir, today that this business which was to have been taken up today should stand adjourned as the first item on a particular day next week, that would be the best thing to do.

Prof. N. G. Ranga (Madras: General): The Chief Whip and the Leader of the House are not here now. May I have some indication from the Ministers present as to when the Hindu Code Bill will come up for discussion and for how many days. Then we can say that as soon as that discussion is over, this will be taken up.

Mr. Deputy-Speaker: The Chief Whip is not here, nor the Leader of the House. I would say it is for the Government to fix up the business of the Government. So far as this Bill is concerned, I would only advise the Government to bring it up immediately after the Hindu Code Bill is disposed of.

RESOLUTION RE CENTRAL ROAD FUND

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

"That this Assembly hereby resolves that the Resolution regarding the continuance of the Central Road Fund adopted by this Assembly on the 19th November 1947, be amended as follows:

CENTRAL ROAD FUND

In sub-clause (a) of clause (1) of paragraph 3 of the Resolution, for the words 'fifteen per cent.' the words 'twenty per cent.' shall be substituted, and the words 'this percentage being applicable with effect from the allocation due for the financial year 1948-49', shall be added at the end."

This is a very simple resolution. The Road Fund was constituted in February 1930 as a result of the Jayakar Committee Report. In the course of these 19 years the Road Fund has remained practically in the same form. Sir, the main features of the Fund are that a certain portion of the petrol tax collected by the Central Government is handed over to this Fund. Formerly the tax handed over was 2 annas per gallon. Now it is 2½ annas per gallon. A part of this Fund is kept as a reserve fund to be distributed among all those projects which require urgent relief. The balance of it is distributed to the provinces according to their petrol consumption. The third point is that the Central Government has got a control over the projects on which this amount is spent. The provinces have to submit their projects to the Central Government for their approval before they can draw from this Fund for expenditure thereon. The fourth point about this Fund is that it is non-lapsing. The Central Government does not say, "I give so many lakhs which have got to be spent this year." If the amount is not spent in one year, then it is carried over to the next year and then it is spent whenever the projects are ready. These are the main features of this Fund.

There is one point which has been under discussion between the provinces, not between the Centre and the provinces, between what may be called the well-developed provinces and those that may be called the less developed provinces. The well-developed provinces have always insisted that the distribution should be on the basis of petrol consumption, while the less well-developed provinces have argued that because they have no roads, they have no motor cars and because there are no motor cars, there is not much of petrol consumption. Therefore they could not get any amount. This is a vicious circle which ought to be broken. In the year 1935 there was an attempt to see if we could evolve a new formula. Then it was not possible. Again we had a revised Resolution in 1947, the main feature of which was that the tax collected on aviation petrol was handed over to the Civil Aviation Department so that it can spend it for the improvement of Civil Aviation. Then the Minister in charge undertook again to see if a new formula which is more acceptable to the less developed provinces can be evolved. In the Transport Advisory Council we did raise the question. We put forward a formula which took into account not only petrol consumption but also the area and population. But unfortunately we could not get the provinces to agree. But they made an alternative suggestion. They said that instead of 15 per cent., which went to the reserve fund, we can increase the fund to 20 per cent., so that we can distribute the 20 per cent. of the total sum on the less developed provinces. As this was the only item on which we could arrive at an agreement we have enforced it and brought this resolution for the ratification of the House. This fund is purely for the provinces and the Centre does not derive any benefit out of it. The Centre only distributes it with the consent of the provinces. This is a matter which has been approved by the Standing Committee on Roads and approved by all the provinces. I hope the resolution will be readily accepted by the House.

Mr. Deputy-Speaker: Resolution moved:

"That this Assembly hereby resolves that the Resolution regarding the continuance of the Central Road Fund adopted by this Assembly on the 19th November 1947, be amended as follows:

In sub-clause (a) of clause (1) of paragraph 3 of the Resolution, for the words 'fifteen per cent.' the words 'twenty per cent.' shall be substituted, and the words 'this percentage being applicable with effect from the allocation due for the financial year 1948-49', shall be added at the end."

[Mr. Deputy-Speaker]

There are two amendments. I am not sure if they are in order. This Resolution is intended to raise the percentage of the fund from 15 to 20. That is the scope of the Resolution. The amendments relate to the utilisation of the fund in tribal areas and undeveloped areas. Whatever may have been the original object of the Fund it will be utilised for that purpose. It is open to the hon. Minister to make note of the subject of these amendments and consider them. Otherwise I am unable to accept the amendments as being in order.

Prof. N. G. Ranga (Madras: General): Sir, I am very glad to support this Resolution and I hope the House will accept it without demur. As is well known ours is a very big country with many provinces of varying degrees of development. In addition to the fact that there are some provinces which are less developed than others, we have come to have many more areas and large populations on account of the recent integration of the States and accession by other States. It is a notorious fact that a large number of these States have been undeveloped and therefore it is necessary that the Centre should have sufficient funds at its disposal to distribute between these various undeveloped provinces and States in accordance with their needs and not in accordance with their capacity to consume petrol.

Secondly, I am also glad that all the provincial governments have agreed on this special reservation and it speaks very highly in favour of their sense of patriotism. Those provinces which are supposed to be somewhat more developed have got to make this sacrifice and they have agreed to do in. Therefore I hope the House will find it easy to accept this resolution unanimously and without any amendments.

Shri Mahavir Tyagi (U.P.: General): Sir, I am in support of this resolution. Perhaps my hon. friend Prof. Ranga comes from a province which is better developed and therefore they will not get the benefit which the less developed ones may get. On a point of information, are not the provinces also entitled to levy some duty or excise on the sale of petrol till now? Are there provinces which are making some money over petrol over and above what the Central Government distributes to them?

The Honourable Shri K. Santhanam: The provinces have no right to levy customs or excise duty but they have the right to levy sales tax. Some provinces are levying a sales tax.

An Honourable Member: As much as three annas per gallon.

Shri Mahavir Tyagi: Petrol is a Central subject practically for excise duty and for the distribution of the money. Is it the intention of the Government to see that provinces are not allowed to realise any income out of petrol sale?

The Honourable Shri K. Santhanam: It is not a matter for me. It is a matter for the Finance Ministry, in the light of the provisions of the new Constitution to decide how far the provinces shall be allowed to collect petrol tax. We only take the money from the Finance Ministry and spend it for purposes of roads according to the Resolution adopted by this House in 1947.

बीकानेर रियासत : सभापति महोदय, इस प्रस्ताव का समर्थन करते हुए एक बात मैं कहना चाहता हूँ वह यह है कि जो वेल्ड डेवेलप्ड (well-developed) ज़े हैं उनका ख्याल ही न रखा जाय वल्कि खासतौर से जो बाण्ड्री (boundry) के सूत्रे हैं सन्देह मत है. उनका भी ख्याल रखना चाहिये। मिसाल के तौर पर ईस्ट पंजाब है, बीकानेर रियासत है, जोधपुर की रियासत है, वेस्ट बंगाल है, आसाम का इलाका

है, बीकानेर रियासत है, जोधपुर की रियासत है, वेस्ट बंगाल है, आसाम का इलाका है, वहाँ सड़कें बनाना ज्यादा जरूरी है, डिफेंस (defence) के नुस्ते निगाह से। तो मैं और ज्यादा न कहते हुए मन्त्री महोदय से इस बात के लिये प्रार्थना करता हूँ कि वह इसके ऊपर लाइट (light) डालें।

(English translation of the above speech.)

Ch. Ranbir Singh (East Punjab: General): Sir, while supporting this motion, I would like to say one thing and that is that attention should not only be paid to those provinces which are well-developed, but also to the border provinces, viz., East Punjab, West Bengal and Assam and Bikaner and Jodhpur States. It is all the more necessary from the point of view of defence to construct roads there. Without saying anything more, I would request the hon. Minister to kindly throw light on this point.

Shri Suresh Chandra Majumdar (West Bengal: General): Ch. Ranbir Singh has said that the border roads in the border provinces should get special consideration along with the undeveloped provinces in the matter of attention to their needs. I want to bring this to the notice of the hon. Minister.

An Honourable Member: They do get special consideration.

Mr. Deputy-Speaker: I am sure the hon. Minister will take it into his consideration.

The Honourable Shri K. Santhanam: I may inform my friend Mr. Majumdar that a substantial part of this reserve fund has been given to the border roads in Bengal. In fact our intention is that as far as possible this 20 per cent will be used for all undeveloped areas. I think East Punjab consumes a lot of petrol and if it does not get its usual share we shall certainly take it into consideration.

This is a non-controversial resolution. We are glad that we were able to persuade the more prosperous provinces to surrender five per cent of the fund which they are entitled to have under the previous resolution. I hope that in course of time we may be able to make them yield a little more. This can be done only by persuasion and not by compulsion. I hope the House will unanimously accept the Resolution.

Ch. Ranbir Singh: What about Rajasthan?

The Honourable Shri K. Santhanam: On 1st April, 1950, Rajasthan will be entitled to claim its due share.

Mr. Deputy-Speaker: The question is:

"That this Assembly hereby resolves that the Resolution regarding the continuance of the Central Road Fund adopted by this Assembly on the 19th November 1947, be amended as follows:

In sub-clause (a) of clause (1) of paragraph 3 of the Resolution, for the words 'fifteen per cent.' the words 'twenty per cent.' shall be substituted, and the words 'this percentage being applicable with effect from the allocation due for the financial year 1948-49', shall be added at the end."

The motion was adopted.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Friday, the 9th December, 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Friday, 9th December, 1949

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Deputy-Speaker, (Shri M. Ananthasayanam Ayyangar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-45 A.M.

MOTION FOR ADJOURNMENT

REPORTED HOLDING-UP OF RAW JUTE BALES BY PAKISTAN GOVERNMENT

Mr. Deputy-Speaker: I have received notice of an Adjournment Motion from Mr. H. V. Kamath. I will read the motion:

"I hereby give notice of my intention to ask for leave to make a motion for the adjournment of the business of the Assembly for the purpose of discussing a definite matter of urgent public importance, namely, the reported holding-up by the Pakistan Government of nearly five hundred thousand bales of raw jute already loaded on barges and bound for India."

The Honourable Shri K. C. Neogy (Minister of Commerce): Sir, this is a matter which is under negotiation at the present moment. I would be prepared to answer a short notice question at a later stage if the hon. Member would put it to me.

Shri H. V. Kamath (C.P. and Berar: General): In view of the assurance given by the hon. Minister, I would not press it now.

Mr. Deputy-Speaker: We will now proceed to legislative business.

INDUSTRIAL DISPUTES (APPELLATE TRIBUNAL) BILL

The Honourable Shri Jagjivan Ram (Minister of Labour): Sir, I beg to move for leave to introduce a Bill to provide for the establishment of an Appellate Tribunal in relation to industrial disputes and for certain matters incidental thereto.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the establishment of an Appellate Tribunal in relation to industrial disputes and for certain matters incidental thereto."

The motion was adopted.

The Honourable Shri Jagjivan Ram: Sir, I introduce the Bill.

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): Sir, I beg to move for leave to introduce a Bill further to amend the Inland Steam-vessels Act, 1917.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Inland Steam-vessels Act, 1917."

The motion was adopted.

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

ADMINISTRATION OF EVACUEE PROPERTY BILL

The Honourable Shri Mohan Lal Saksena (Minister of State for Rehabilitation): Sir, I beg to move for leave to introduce a Bill to provide for the administration of evacuee property and for certain matters connected therewith.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the administration of evacuee property and for certain matters connected therewith."

The motion was adopted.

The Honourable Shri Mohan Lal Saksena: Sir, I introduce the Bill.

INDIAN RAILWAYS (AMENDMENT) BILL

Mr. Deputy-Speaker: We will now take up further consideration of the Bill further to amend the Indian Railways Act, 1890. We will now proceed with clause 10 which was allowed to stand over.

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): We were discussing yesterday an amendment to clause 10. I am glad to say that I shall be willing to accept the amendment suggested. Therefore I beg to move:

"That in clause 10 of the Bill, in the proposed new section 74B of the Indian Railways Act, 1890, after the words 'may arise' occurring in the last line, the word 'only' be inserted."

This will make the interpretation quite clear and that will be more or less in consonance with the interpretation suggested.

Mr. Deputy Speaker: The question is:

"That in clause 10 of the Bill, in the proposed new section 74B of the Indian Railways Act, 1890, after the words 'may arise' occurring in the last line, the word 'only' be inserted."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 10, as amended, stand part of the Bill."

The motion was adopted.

Clause 10, as amended was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri K. Santhanam: Sir, I beg to move:

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

(418)

Sir, I do not want to take up the time of the House. I only want to say one or two words. Though I resisted any change in the legal responsibility, the Railway Ministry has been taking a very generous attitude in the matter of claims. Now, Railways have been instructed to settle claims promptly, also not to take technical objections where the loss or damage is really to the parties concerned. Sir, it is true that there have been some cases where merchants have lost and their claims were delayed sometimes. We have speeded up the entire machinery now. Also I would like to mention to the House that there are certain elements which are trying to exploit the railway liability and are making claims a regular business for exploiting the railways. We have to take care against them. They are making it a point to see that things are sent in a defective condition and at the end they put forward all kinds of claims. I am not making a general accusation against any class or section, but there is a small body of persons who are exploiting and we have to be very careful against them.

One thing also I may mention; so far as the railway risk is concerned, we are extending the list. Now for about 7000 items only railway risk is permitted; owners' risk is not permitted, and amongst the articles which are to be sent only at railway risk, the following are some items: Sugar, Paper, Oilseeds, Oilmen's stores, Jute, Iron and steel, Hides and skins, Hardware, Grains and pulses, Fibres, pressed and unpressed, Drugs, Raw cotton, Charcoal, Cement, Biscuits, Bicycles, Tobacco, etc.

Therefore in all these main articles, the railway liability is that of the bailee. It is only in the minor articles the question of owner's risk and railway risk comes, and therefore my friend, Pandit Thakur Das Bhargava, need not be very apprehensive that the railways are in any way trying to shirk their responsibility. Sir, I move.

Mr. Deputy-Speaker: Motion moved:

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

Shri R. K. Sidhva (C.P. and Berar: General): The hon. Minister has given a list of things which can be sent only at railway risk. Will the rate be the same as the rate for owner's risk or will it be higher?

The Honourable Shri K. Santhanam: There is no owner's risk for these articles.

Mr. Deputy-Speaker: They can be sent only at railway risk.

Shri R. K. Sidhva: Then there is no improvement at all.

Pandit Thakur Das Bhargava (East Punjab: General): Sir, I am grateful to the hon. Minister for this much more information he has given at this stage. I am also glad that railways have been instructed not to take technical advantage in respect of claims of the people at large, where compensation is really due. I am one with the hon. Minister in his condemnation of those people who want to take advantage of the legal position in the Railway Act and want to have compensation where it is not due, and the recent improvement which has been made in the Railway Act for insisting on a particular kind of packing which will, I hope, go a long way in removing this complaint. All the same, Sir, I submit for the consideration of the hon. Minister, that this Bill has not improved the position in any way. It may be true that it has not worsened the position as has been claimed by the hon. Minister, but what was previously latent in the owner's risk note has now become patent to the whole public. It is true that so far as railway risk is concerned, there are certain articles in which there is no question of owner's risk and the hon. Minister has taken credit for this. I give him that credit. It is all right.

[Pandit Thakur Das Bhargava]

The desirable thing is that all these things should be sent at railway risk. In all these things the rates should not be excessive. After all public interests require cheap and safe transport and therefore in regard to articles which can be taken at owner's risk if we diminish the responsibility of the railway it is not in the public interest. If cheap and safe transport is desirable, the rates in regard to owner's risk also should remain as they are but the responsibility of the railway should not be diminished.

My amendments have not been accepted on the plea that this is only a procedural Bill. Where they take away the common law right of a person to claim damages, surely it is a question of substance and not of procedure. In this procedural Bill a substantive right has been taken away and where in fact my amendments were on matters of substance the hon. Minister failed to consider them on their merits.

There is however one hope. The hon. Minister has been pleased to say that within a period of two or three years he is going to bring forward a comprehensive Bill when these matters will be considered. I for one do not see any justification for not considering these matters of substance even today. All the same if the hon. Minister is going to bring a comprehensive Bill let us wait for it. I would however submit to the hon. Minister that he should take steps to see that thefts and cases of negligence on railways are diminished. My own fear is that by passing this Bill we have really encouraged such cases, because when the Railway is not responsible, its servants will not take care to see that thefts do not occur or negligence is avoided. However I am happy that in regard to certain matters the position has been improved. For instance, in regard to claims people will certainly get their claims settled more speedily and in a summary manner.

I would also suggest that the hon. Minister should bring forward his proposed comprehensive Bill as soon as possible, so that the public may be benefited and in our new set up we may have an easy, cheap and safe transport. The complaints against the railways are universal. Corruption and thefts are increasing and if in a department of the Government these things cannot be diminished I do not see how the public morals can be improved. Both react on each other. My submission is that steps should be taken as early as possible to bring in the new Bill so that the allocation of responsibility may be rightly made. This is a very important matter and unless and until responsibility is rightly allocated, it is difficult to get justice done in cases where people are put to a loss on account of negligence or thefts on railways.

Shri C. Subramaniam (Madras: General): Sir, there is a certain amount of misunderstanding in the minds of hon. Members regarding the provisions contained in clause 10 of this Bill. The responsibility of the railway administration as carriers is laid down in section 72 of the Railway Act. Clause 72 (1) reads:

"The responsibility of a railway administration for the loss, destruction or deterioration of animals or goods delivered to the administration to be carried by railway shall, subject to the other provisions of this Act, be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872."

Sub-clause (2) of section 72 reads:

"An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void, unless it,—

(a) is in writing signed by or on behalf of the person sending or delivering to the railway administration the animals or goods, and

(b) is otherwise in a form approved by the Governor General in Council"

Sub-clause (2) is being taken away. But the responsibility fixed on the railway administration under section 72 (1) remains there.

I would now draw attention to the provisions of sections 151, 152 and 161 of the Indian Contract Act, 1872.

Section 151 says:

"In all cases of bailment the bailee is bound to take as much care of the goods bailed to him as a man of ordinary prudence would, under similar circumstances, take of his own goods of the same bulk, quality and value as the goods bailed."

Section 152 reads:

"The bailee, in the absence of any special contract, is not responsible for the loss, destruction or deterioration of the thing bailed, if he has taken the amount of care of it described in section 151."

Section 161 says:

"If, by default of the bailee, the goods are not returned, delivered or tendered at the proper time, he is responsible to the bailor for any loss, destruction or deterioration of the goods from that time."

The responsibilities fixed on the railway administration under these sections of the Indian Contract Act remain intact and have not been taken away.

Under sub-clause (2) of section 72 of the Railway Act if the railway administration wanted to get out of these responsibilities the sender should in writing agree to that. That is why when the goods were being sent at the owner's risk a special procedure was being followed, namely the signing of so many risk notes. It was a cumbersome procedure and the senders were finding it very difficult to get attestors. Hence the procedure had to be simplified. The point is: Do you want two rates or not—owner's risk and railway risk rates? Some people may think that after all in certain type of goods there is not so much of risk involved and they would like to send them at their own risk at a cheaper rate. When owners are prepared to take the risk is it not necessary for the railway administration to provide cheaper rates, so that owners may take advantage of them and send their goods at their own risk. It is certainly very necessary and the general class of merchants would certainly welcome it, even though hon. Members here might think that there should be only one rate with the responsibility fixed on the railways in all cases. That is why there are two rates provided in the Bill. If so, when goods are sent at owner's risk is it necessary that the present cumbersome procedure should be followed or should it not be simplified? This Bill simplifies that procedure. If a person sends his goods at his own risk it is not necessary that he should sign so many forms. If he wants to send his goods at the railway risk he pays a higher rate and gets a certificate saying that the goods are being sent at the railway risk. I do not see any disadvantage caused to senders by this procedure.

Under clause 10 relating to the liability of a railway administration for goods in defective condition or defectively packed, the railway administration is entitled to say that for the purpose of accepting certain goods for being sent they should be packed in a standard way, so that there may not be any deterioration or loss due to defective packing. But if the owners say that it is not necessary that the goods should be packed in a particular way and that they are prepared to take the risk, should not the railway administration give them the facilities to send their goods so defectively packed? Under the proposed section 74A says: that if any owner says that as far as he is concerned he is prepared to send his goods though the packing is defective, certainly the responsibility for any loss due to defective packing has to be taken by the sender. Proposed Section 74A says:

"except upon proof of negligence or misconduct on the part of the railway administration or any of its servants."

[Shri C. Subramaniam]

Sufficient safeguards have been made providing that the nature of the packing should be recorded by the sender or his agent in the forwarding note. He has got to record it. Only then the railway administration can take advantage of it. When the owner himself willingly makes a note in the forwarding note that the packing is defective, then if any loss is caused it will certainly be for the owner to prove that the loss was caused not due to the defective packing but because of the negligence or misconduct of the railway administration or any of its servants. After all, the onus of proof in all cases is a matter of procedure. When the onus is put on a certain person he has to lead *prima facie* evidence to say that all the necessary precautions had been taken and that the loss could not have been caused but for the negligence or misconduct of the railway administration or any of its servants. And it will be for the railway administration to refute that evidence. When the whole evidence has been placed before a Tribunal there is no question of onus of proof either this way or that way. The entire matter is considered by the Claims Commissioner and he comes to conclusions in the matter. That is the procedure. When the whole thing is placed before a tribunal or court the entire evidence has to be considered and they come to an independent conclusion. In cases where absolutely no evidence is available difficulties may arise because the onus has not been discharged, then the party may have to suffer. In all the other cases the placing of the onus is merely procedural. Therefore I would like to submit that when the owner himself sends certain goods in improper or defective packing, then he has to take the responsibility; it will not be for the Railway administration to prove how that damage was caused. So I would respectfully submit that even under section 74A the responsibility that the Railway administration should take sufficient care as laid down in section 151 of the Contract Act is not abrogated. That responsibility is still there. Even though the goods may be in defective or improper packing the responsibility which is laid on the railway administration that it should take such care as any other prudent man will take under the circumstances is not taken away. If it does not take such care it will amount to negligence on the part of the railway administration. I do not think therefore that the responsibility of the railways is in any way abrogated. But when it is a case of defective or improper packing the responsibility of proving that the damage or loss is due to the misconduct or negligence of the railway administration is on the person who alleges it. Even in any other case when a person claims certain damages on the ground of misconduct or negligence of the other party it is for the person who makes the allegation to prove that neglect or misconduct in a court of law—in any Civil Court. In the special circumstances—when he himself sends the goods with improper packing certainly it will be for him to prove that there has been negligence or misconduct on the part of the railway administration or any of its servants.

Under the proposed section 74B it is not as if anybody is forced to send things in an open wagon. But suppose covered wagons are not available at certain stations and only open wagons are available. The owner knows he is running a risk but he is prepared to take the risk because he wants to have the goods moved as early as possible and he says "send it at my risk in the open wagon". Then he takes the responsibility. Even yesterday my submission was that even as the wording stood, that is, even without the addition of the word "only" the meaning is that the railway administration is not responsible for any destruction, deterioration or damage which may arise by reason of the goods being so carried. But it is limited only to those cases and whenever there is negligence or misconduct on the part of the railway administration and because of that the damage or loss is caused to the party the railway administration would be liable. But the addition of the word "only" makes it more clear, though even without it the responsibility of the

Railways under section 151 of the Contract Act is always there. Whenever there is negligence or misconduct it is clear under section 74B that the railway administration will always be liable.

In regard to section 74C, as I have already stated, it provides two risk rates—owner's risk rates and railway risk rates. In the interests of the business community and the public it is necessary to have the two rates, one cheaper than the other.

My hon. friend Pandit Thakur Das Bhargava was pleading for the common law right. But even though he was using the words "common law right" he was not pleading for the common man's right. After all, the common man's right has been properly safeguarded by making a provision in all cases for a compensation but finding the maximum limit at Rs. 10,000. But what he has been pleading was for the richer people, for the millionaires. (Interruption) Those people will not be content with Rs. 10,000 but will claim lakhs and lakhs saying "we are millionaires, we are earning lakhs and lakhs, therefore we should be paid more". But any common man to whom an injury may be caused will not be able to claim more than the maximum provided and he will be quite content with that.

Dr. P. S. Deshmukh (C.P. and Berar: General): The hon. Member thinks very low of common people.

Shri C. Subramaniam: As I have already pointed out, they will be quite content to get Rs. 10,000 without going to court and spending money on lawyers and going through all the difficult process. By this summary procedure provided in the Bill they will be adequately compensated. As far as the richer people are concerned they will very well take care of themselves. I do not think therefore that any change should be made in respect of this provision. This limit should be fixed. After all the railway administration is not a private body—it is not a private enterprise. It belongs to Government and therefore it belongs to the community. When it is run for the community as a whole it cannot take upon itself an unlimited liability of paying millions and millions to the richer people, to the millionaires, who might unfortunately get caught in some accident and get injured or die in that accident. As far as the common man is concerned his right has been properly safeguarded. The right of the community has been safeguarded. Even when a comprehensive Bill comes before the Assembly or the Parliament later on, I do not think there should be any change in this provision. I think we have done well in amending this provision in the manner we have amended it and I do not think there is any cause for grievance for anybody.

Mr. Deputy-Speaker: The Bill has been sufficiently discussed. Anyhow I shall call upon Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I shall make only short points. I fully welcome the provisions of the Bill. But I would impress upon the hon. Minister the need for a full examination of the question of placing the onus. There has been some amount of misapprehension that as the responsibility of the Railways has been made clear, the question of onus is merely procedural and that therefore it is immaterial. But a procedural law may seriously jeopardise some rights of a party by placing him at a disadvantage. And it has been thought that all grievance as to difficulties in regard to onus is swept away by the fact that a High Court appeal has been allowed. But if there is a difficult question of onus which it is impossible for a man to prove, the High Court will not be able to give any relief to him in case there is injustice.

The Honourable Shri K. Santhanam: I do not know where the High Court comes in here. It is only in respect of compensation and there it is automatic.

Mr. Naziruddin Ahmad: I am asking him to reconsider the whole matter when the revision of the Act comes up.

श्री लक्ष्मी नारायण साहु : माननीय उपवाचस्पति जी, मैं इस बिल (Bill) के

बारे में ज्यादा समय नहीं लूंगा। मैं इतना ही कहना चाहूंगा कि सब वक्ताओं ने जो कुछ कहा है आखिर के वक्ता न साधारण आदमी के लिये जैसी ठोकर लगाई इससे मुझे दुःख हुआ। इसी लिये मैं कहना चाहता हूँ कि साधारण आदमी रेलवे (railway) में इतनी ज्यादा तकलीफ गुड्स (goods) के लिये पाता है तब वह कम्पनसेशन (compensation) मांगता है। रेलवे को इतना अधिक फायदा होता है और फिर भी साधारण आदमी के ऊपर यह टीका लगाया जाता है कि आयन्दा ऐसा होगा तो बहुत ज्यादा आदमी इसमें फायदा उठावेंगे। मैं कहता हूँ कि रेलवे के क्लेमस (claims) के बारे में बहुत आदमी क्लेम नहीं करते हैं। चिट्ठी लिखते लिखते हैरान हो जाते हैं तो भी क्लेमस का फ़ैसला नहीं होता है। मेरे एक मित्र हैं जो दवाई का कारोबार करते हैं। एक पैकट (packet) खो जाता है तो उसके लिये दो दो तीन तीन बरस तक चिट्ठी लिखते हैं फिर भी उसका जवाब नहीं मिलता है। इसी लिये मैं कहता हूँ कि साधारण आदमी का इसमें दोष नहीं है, यह तो कम्पनी का (company) का दोष है। और यह इस लिये है कि अब तक जो इण्डिया (India) में रेलवे थी वह यूरोपियन (European) रेलवे थी और बहुत बड़े बड़े आदमी उसमें काम करते हैं। उनका एटीट्यूड (attitude) अभी भी यूरोपियन ही है। इसी लिये यह सब तकलीफ़ है। मैं जानता हूँ कि एक पार्सल (parcel) मैंने अलेम्बिक (Alembic) से मंगवाया, वह जाना था रायगढ़ा और रायगढ़ा उस पर लिखा था। लेकिन वह चला गया रायगढ़। फिर बहुत दिनों के बाद लिखा पढ़ी के वह पार्सल आया तो उसका बहुत ज्यादा डेमर्रेज चार्ज (Demurrage charge) देना पड़ा। तो यह डेमर्रेज चार्ज मुझे क्यों देना चाहिये था लेकिन मुझे यह देना पड़ा। उसके बाद लिखते लिखते पांच छः महीने हो गये फिर भी अभी तक मुझे डेमर्रेज चार्ज वापस नहीं मिला। यह मेरा दोष नहीं था, रायगढ़ा लिखा था और वह चला गया था रायगढ़ा। तो मैं कहता हूँ कि इस प्रकार की बातें होती हैं।

मैं तो इतना ही कहूंगा कि रेलवे को चिट्ठी लिखते लिखते कोई फ़ैसला नहीं होता। अब जो कमिश्नर (commissioner) का प्रबन्ध किया गया है तो यह अच्छा है। लेकिन मैं जानना चाहता हूँ कि इस कमिश्नर का काम कैसे होगा। अगर कमिश्नर हो कर जल्दी फ़ैसला हो तब तो ठीक है नहीं तो कमिश्नर रख कर हमारा पैसा और बरबाद करना होगा।

(English translation of the above speech)

Shri Lakshminarayan Sahu (Orissa : General): Sir, I will not take much time for this Bill. I only wish to say that the unkind remarks of the last speaker, as also of others, about the common people have pained me very much. Therefore I wish to say that the common people demand compensation only because of the fact that they have to experience such hardships at the hands of the Railway authorities for their goods. The Railways reap so much profit and yet the common people are stigmatized by saying that if such things would happen in future then a large number of people will take advantage of

it. About the Railway claims I say that many people do not file claims. They get tired of writing reminders and letters and yet the claims are not settled. I have a friend who deals in drugs and medicines. If a packet gets lost then he has to carry on correspondence for years together and yet no satisfactory reply is received. For this reason I say that the common people are not at fault in this respect, the fault lies with the Railway, and that also for the reason that till recently the Indian Railways were British owned and big persons are serving therein. Their attitude is still European, and this therefore is the cause of all this trouble. I remember that I ordered a parcel from the Alembic, it was to be sent to Raigarha and the word Raigarha was written clearly thereon. But it went to Raigarh. When after a very long drawn out correspondence the parcel reached me I had to pay a good deal of demurrage charge. Why I was required to pay this demurrage charge? But I had to pay. For the last six months I am in correspondence with the Railway authorities but as yet the demurrage charges paid by me have not been refunded. This was not in the least my fault. The word Raigarha was written thereon, but it was sent to Raigarh. That is why I say that such things do happen.

I would like to say only so much that even after writing a number of letters the Railway authorities do not settle the disputes. I welcome the appointment of a Commissioner. But I like to know in what manner the Commissioner would work? If the appointment of a Commissioner entails a quick settlement of disputes then it is all right else this appointment of a Commissioner will be an additional waste of public money.

The Honourable Shri K. Santhanam: Sir, I don't want to go over the ground which has been covered so many times. So far as the legal aspects are concerned, I have explained the position many times and though Pandit Thakur Das thought fit to repeat them again, my friend Shri C. Subramaniam has explained them. But one thing I must deeply regret. Pandit Thakur Das said that corruption in the Railways is increasing. It is entirely untrue. Sir, I think corruption has diminished to a very great extent during the last one year.

Pandit Thakur Das Bhargava: Question.

The Honourable Shri K. Santhanam: The number of thefts has decreased, cases of pilferage have decreased and the number of current claims has decreased. All this shows that in this matter there is a great improvement. I have gone all round the country and have met the merchants themselves. They have told me everywhere that today in the matter of giving wagons, in the booking of parcels and in every other aspect, corruption has decreased considerably. It is discouraging to the Railway staff all over the country that Members in this Assembly should go on repeating such charges without careful consideration of the facts.

Shri Upendranath Barman (West Bengal: General): What are the figures regarding current claims?

The Honourable Shri K. Santhanam: I have given them many times in reply to questions and I hope I shall be giving them later. I cannot be keeping all the numbers of claims in connection with a Bill which does not deal with such matters. I am quite willing to give later the information which my honourable Friend Mr. Barman requires.

Sir, even now the loss incurred by the mercantile community is less than one-fourth of one per cent. of the entire goods booked both at owner's risk and railway's risk. Even that is high and we want it to be reduced to the third decimal place; even :1 per cent. may be too high. But I do not think it helps the Railway Administration or even the interests of morality, as Pandit Thakur

[Shri K. Santhanam]

Das has been kind enough to say, to exaggerate matters, to make it appear as if things which are being despatched are being lost as a matter of course.

The last speaker, Mr. Sahu, I think confused matters. These commissioners are not going to be appointed to deal with claims. They are going to be appointed to settle compensation for poor people who may suffer damage or injury in case of a railway accident. There it has nothing to do with the mercantile community. It is the passengers who will suffer loss or damage and in order to give them compensation for the injuries received or for the death of the bread-winner, the commissioners have been brought in. The claims will be dealt with by the ordinary administration and the machinery has been so speeded up that there are only a very few claims of over six months at present.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

ELECTRICITY (SUPPLY) AMENDMENT BILL.

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

"That the Bill to amend the Electricity (Supply) Act, 1948, be taken into consideration."

It is over a year now that this House decided to legislate on the important subject of rationalising the production and distribution of electricity in order to promote the electrical development of India. The Electricity (Supply) Act of 1948 accordingly envisaged the setting up of two main organizations—one at the Centre and the other in the Provinces—to put into operation the objectives of that legislation. The amending Bill that is now before the House seeks to facilitate the setting up of those two organizations, namely the Central Electricity Authority and the Provincial Electricity Boards.

The Central Electricity Authority is charged with the functions of developing a sound, adequate and uniform national power policy and of co-ordinating the activities of the planning agencies in relation to the control and utilisation of national power resources. It is also entrusted with the function of arbitrating in matters arising between the Provincial Governments or the Boards on the one hand and a licensee or other persons on the other. Though this Authority should have been set up sometime last winter, the fact that it has not yet come into being does not mean that there has been no central supervision over the subject of electrical development in the country. The Central Electricity Commission and the Central Water-power, Irrigation and Navigation Commission have kept as close a watch as possible over the development of electricity, as the concurrent nature of the subject under the Government of India Act 1935 would allow. With the coming into force, however, of the sixth Schedule to the Electricity (Supply) Act, problems will arise in future, as indeed some have already arisen, which will need expert attention and which make it necessary that the Authority be set up with the least amount of delay. Paragraph 1 of the Statement of Objects and Reasons of the amending Bill describes the difficulty which we have had to face in constituting the Authority. There is firstly, the difficulty in finding the full-time engineering personnel with the calibre which will inspire confidence in the Authority. All engineers of repute are already usefully employed in promoting the electrical development of the country and we are all aware of the great demand for their

services from many competing sources. For some considerable time, therefore, it will be necessary for the Central Government to use the Engineers of repute which it already has to constitute the Central Electricity Authority. The intention of the amending Bill is therefore to ensure that the Central Government is not prevented from appointing part-time members according to the exigencies of the work in the Authority. I can also assure the House that the appointment of such part-time members will not in any way affect the impartial nature of the Authority or diminish the confidence which the Authority is to instil in every organisation which is in any way connected with the development of electricity. The amended Act which in fact make it possible to appoint part-time judicial members—if the need ever arises—to take up cases of disputes which may be referred to the Authority for arbitration. The amendments now sought to be introduced will make for economy and for the best utilisation of the limited engineering personnel that is available in the country.

The reasons which justify the amendments in respect of the Central Electricity Authority also impel us to take corresponding measures to facilitate the setting up of the Electricity Boards in the provinces. Under the Electricity (Supply) Act, these Boards are to be set up by September 1950 and certain provinces are already devoting considerable thought to bring the Boards into being. They have, however, come up against certain practical difficulties, the most important of which are connected with the financing of the Electricity Boards and the administrative expenditure involved in having to appoint at least three full-time members. I am clear in my mind that the position will be changed materially if the amending Bill is passed into law. The difficulties of finance and personnel will largely disappear as the amending Bill will make it possible for the provinces, if they so desire, to make their own Chief Engineers and other officers the Chairman and Members of the Provincial Electricity Boards. There can be no doubt that the Boards must be set up and given a trial and that every effort must be made to facilitate their constitution. The Electricity (Supply) Act is in many ways quite a revolutionary piece of legislation, the adoption of which, this House decided a year ago, would result in the more rapid progress of electrification in the country. Old prejudices die hard and the adoption of something new which will remove the administrative machinery from its age-old rut of red tape and conservatism is bound to stir up hostility and conjure up imaginary difficulties in certain quarters. It is clear, however, that the Provincial Electricity Boards represent an experiment in autonomy in the field of electrical development circumscribed by healthy and useful direction from the Provincial Governments and the Central Electricity Authority. The Boards will to a very large extent fashion their own policy of developing electricity in the provinces and take concrete steps to implement that policy. There will be a vision, which we hope, will be larger than that of which has yet been brought to bear on the electrification of the country, and the sooner they can commence their work the better it will be for the industrialisation of the country.

Opportunity has also been taken to remove a mistake which occurred when the main Act was passed, namely, that Section 83 which ought to have been brought into force immediately was not included in sub-section (3) of section 1. I thought this Bill would have the unique honour of no amendment being moved and till I got up to make this motion for consideration, there was no amendment on the Order Paper. But I have got an amendment now which Sjt. Kuladhar Chaliha and Lakshminarayan Sahu proposed to move. Although I can oppose it on the technical ground that the notice has been received only this morning at 11 A.M., I want to assure them on the merits of the amendment that the clause leaves sufficient discretion for the rule-making power and what

[Shri N. V. Gadgil]

they have suggested in the proposed amendment will be taken into consideration. But to bind down the hands of the Authority statutorily is in my humble opinion not a wise provision. That is all I want to say about this amendment.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to amend the Electricity (Supply) Act, 1948, be taken into consideration."

Shri H. V. Kamath (C. P. and Berar : General): Sir, I am sorry I am not in a position to accord wholehearted support to the Bill that has been brought before the House by the hon. Minister for Works, Mines and Power. The hon. Minister has sought to put a fine gloss over unpleasant facts and attempted to conceal behind a smoke-screen of words the failure of Government to implement what the hon. Minister himself has described as a "revolutionary" piece of legislation. When the Electricity Supply Act was passed last year, it roused very ardent hopes in the minds and hearts of Indians all over the country. Electricity has failed!

The Honourable Shri N. V. Gadgil: The electricity does not approve of what you say.

Shri H. V. Kamath: I think it is an ill augury for the future—although I do hope it won't come to pass—that just when we are discussing the Electricity Supply Bill electricity should fail. I hope, Sir, the scheme also would not fail.

Mr. Deputy-Speaker: It is afraid of the strong opposition of the hon. Member!

Shri H. V. Kamath: If one man's opposition could do so much, I think that much more could have been done in this country, but unfortunately it cannot be.

Pandit Thakur Das Bhargava (East Punjab : General): Oh, you can move mountains.

Shri H. V. Kamath: I want to move men, not mountains. As I was saying, when this Act was passed last year, it aroused very ardent hopes in the minds and hearts of the people all over the country. The Preamble to that Act stated that it was "expedient to provide for the rationalisation of the production and supply of electricity, for taking measures conducive to electrical development of the provinces of India and for all matters incidental thereto", and it was stated by the Minister himself in the course of his speech during that session that this Act will lead to a more happy and a more prosperous life for the masses of our country. There is no doubt that if electricity could be developed and rationalised and utilised for productive purposes it would take our country a very long way on the path to happiness and prosperity for the people as a whole and the masses in particular. It was then stated by the hon. Minister that as a result of this Act, electricity would perhaps become very cheap and that it would also be utilised for running the industries of our country. Today the position seems to have altered. Today the ardour of the Minister seems to have been damped. I am repeating it—because the Minister is straining his ears to hear and for his benefit I would repeat that particular sentence. I fear the ardour of the Minister has been damped by the developments or by what happened during the last fifteen or eighteen months. Today, he does not seem to be as enthusiastic as he was fifteen or eighteen months ago when he moved the consideration of the Electricity Supply Bill. The unfortunate part of the whole matter, to my mind, is this, that our Government

and we as a whole—perhaps all of us—are actuated by revolutionary intentions. We always thought of revolutionary changes and everything is held up to the people as a revolutionary measure. Intentions are revolutionary certainly, but when it comes to execution the revolution goes with the wind and the revolutionary fervour does not descend to the execution of the revolutionary plans conceived in the mind. That is the tragic aspect of the situation that confronts us today in the country.

I need not dilate upon the beneficial effects of electrical development in our country.

Lenin was once asked to define communism. His reply was that it was Soviet plus electrification. That was his way of emphasizing the importance of electrical development.

The Honourable Shri N. V. Gadgil: What would be minus electrification?

Shri H. V. Kamath: I leave it to the Minister to tell us what India would be without electrification. I hope that the spirit that actuated him to put this question today will not actuate him in future when schemes are to be put into operation and that he will not put electricity on the minus side instead of giving it a push and a spurt forward.

Even Mahatma Gandhi—I had an occasion of discussing this particular matter with him once—was not opposed to electric power, if it was on a cottage basis. If every villager in India had a little dynamo in his house to run his charka he would not have objected to that. That is why I feel that Government should have taken every possible step to push forward with the scheme which was passed last year, but it has been held up on the ground that they are confronted with so many difficulties and are not in a position to go full steam ahead. This is a very unfortunate state of affairs.

We are already subjected to considerable ridicule by some people that we have got a number of paper schemes and paper plans to our credit, but that very little is being done in regard to their execution, on the ground that we do not get the personnel and that we do not have sufficient finance. That is a pathetic state of affairs; and I hope and trust that our Government will take courage in both hands. We will have to live dangerously if necessary. Otherwise there is no hope for us. We should go ahead with at least some of the schemes that have been passed during the past two or three years. Otherwise I do not know what is in store for us in the future.

Now, Sir, coming to this Bill that has been moved by the hon. Minister today, what is it that it seeks to do? The amendments that are sought to be made in the Bill have been made on two or three grounds. Let us for a moment turn to the Statement of Objects and Reasons. It says:

"In view of acute shortage of engineering personnel, inadequacy of work in the early stages as well as urgent need of economy, Government considers that the Central Electricity Authority should be constituted, to begin with, by employing part-time personnel from the Central Electricity Commission and other organisations. It is, therefore, proposed to amend the section removing the statutory obligation to appoint any full-time members."

Now, Sir, it is a very facile statement to make. But it behoves us to go deeper into this matter that has been posed or has been brought up before the House by the hon. Minister. The first aspect of it is this. When the Electricity Supply Bill was enacted into law last year did the Government, did the Minister, his Secretariat and his advisers consider this matter at all or not? Did they try to find out how many engineers would be available, what work they will be entrusted with and whether the finances necessary for this scheme would be available. If they had paid careful and profound consideration to all these matters then I see no reason why they should amend this Bill

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today. But unfortunately they have not looked into all these very important matters like personnel and finance which are important in any scheme brought by Government. The only comment that I can make is that they acted without any foresight whatever. They did not look into essential matters. They did not know what might happen, and then after one year they start thinking about the personnel. This, Sir, is not the way in which our revolutionary Government should go about. If the masses are to be benefited, if they are to feel happy, we have got to adapt our means, our ends, our methods, our technique and our personnel to these revolutionary intentions that animate us. Otherwise there is no hope for our country. I do hope, Sir, that the Government will wake up, take courage in both hands and even live dangerously and also ask the people to live dangerously.

Shri Krishna Chandra Sharma (U. P.: General): Let the hon. Member define the meaning of the words "living dangerously".

Shri H. V. Kamath: Let those hon. Members who are interested come to me privately and I will tell them what it means.

Now, Sir, let me take up these matters referred to in the Statement of Objects and Reasons, one by one. The first is the shortage of engineering personnel. I would invite the attention of the hon. Minister to the report of the Scientific Man-power Committee. The report of the Scientific Man-power Committee was laid on the table of the House last week, I believe, or a few days ago. Dr. S. S. Bhatnagar, who was the Chairman of the Committee in the letter of transmittal to the hon. Maulana Abul Kalam Azad remarks as follows:

"I should, however, like to stress the significance of the report in the context of all-round national development. Standing on the threshold of a new era, India faces today, great trials, great duties and great rewards. The most precious of all the gains towards which we may hope to progress is in the development of our industries, agriculture, scientific research, transport, defence, medical and public health services, education and other lines of creative activity, which contribute to the strength and well-being of the country. In the trials and in the duties essential to that progress, the Scientists and Technologists of the country in their infinitely varied types, have to play their rightful part and bear their full share."

I repeat these words: "The scientists and technologists of the country in their infinitely varied types have to play their rightful part and bear their full share." Indeed theirs is the responsibility unequalled by any other section of the people. It behoves the State, the Government to create the necessary scientific and technical capital in the coming years. From this it is not so obvious that we have not got enough talent of the required type in the country. The only difficulty seems to be how to attract the type? And here I must say with the deepest regret that we—I do not want to distinguish the "we", but "we", I would say generally,—we have not yet got over the weakness, or soft corner for the white skin. (An Honourable Member: Royal 'We').

The Honourable Shri N. V. Gadgil: There is not a single electrical engineer in the Government of India who is a non-Indian.

Shri H. V. Kamath: I am not talking of the particular department of the hon. Minister. It appears as if this generation has to pass before we can cultivate and develop a deep love for India and Indians, our own officers and our own men. It is unfortunate that even in some of the highest quarters, this weakness or partiality for the White man, especially the British is still entertained. I shall give a little instance, and I do not know whether that is the case in other departments also. I know of one Department where it has happened, and that is in the Ministry of Health. Recently two experts.

Mr. Deputy-Speaker: Is it relevant to go into that issue, particularly when the hon. Minister has stated that in his Department there is no European at all and there is no point in referring what is going on in other departments of the Government of India?

Shri H. V. Kamath: May I submit, Sir, that when the Minister speaks, he speaks for Government as a whole and not individually?

Mr. Deputy-Speaker: I am sorry, it is going beyond the scope of the present Bill. The hon. Minister only thinks that without the appointment of certain foreign personnel further progress is not being made, that is incidentally, but there is not even a foreign man here.

Shri H. V. Kamath: May I submit that the reason given by the hon. Minister for this amendment is shortage of electrical personnel? Is there such shortage? That is the question.

Mr. Deputy-Speaker: How does the question of white man or the black man arise?

Shri H. V. Kamath: The hon. Minister stated that it is difficult to attract proper talent to this sort of work, but why is it so? It is because when we try to attract our own talent, the Indian talent, to any concern, any enterprise, any of our work, we do not offer him such remuneration as we will offer to the British or American engineers. That is my point. (Interruption). Two so-called expert engineers have been got from England for the Ministry of Health in connection with the pre-fabricated housing factory, and as soon as those two Engineers came, one expert, an Indian structural engineer who was working on the scheme for the last nine months and who was only drawing a salary of Rs. 1,200, has been dispensed with and these new people, whose qualifications, God only knows are paid Rs. 2,000 and actual expenses whatever they are without any limit.

Mr. Deputy-Speaker: I would ask the hon. Member not to proceed with making reference to other ministries. There are no other Ministers here to reply to them and after all it is not relevant for the purpose of the Bill on hand. The hon. Member has said sufficiently regarding the shortage of personnel and he may proceed to refer to any other points.

Shri H. V. Kamath: I do not know about the position in the Damodar Valley Corporation.

Mr. Deputy-Speaker: We are on the subject of electricity. There may be irrigation and mechanical engineers but here there is a shortage of electrical engineering personnel. I think the hon. Member evidently has got a number of other important points which are more important. He need not therefore dilate upon this one.

Shri H. V. Kamath: I thought that the hon. Minister could have stated that owing to the shortage of electrical engineers for this purpose this amendment has been necessitated but he preferred to make a sweeping statement that there is a shortage of engineering personnel. If the Government cares to go into the matter, they will find that there are many unemployed engineers in the country today who for want of proper incentive by way of remuneration, allowances, etc. are without jobs, but we are always ready to allow foreigners in our industries, in our national economy on higher terms or more attractive terms than we offer to our own people and that is why I say that this statement is not correct. With due deference to the hon. Minister, I submit this question has not been carefully examined and the reason for this shortage is that we do not offer proper incentives or terms to our own people, as good terms as we offer to foreigners, and so this sort of thing goes on.

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Coming to the substance of the amendment, what exactly does the Minister want? The Minister wants that this Central Authority and the Provincial Boards should be run by part-time personnel, that is to say, to my mind, by arm chair members. We will have part-time workers who will only put a part of their heart into the work, and the rest will be somewhere else: that will be a most unsatisfactory state of affairs. This electrical development of our Provinces is a most important undertaking for our national economy, but now we have this position adumbrated by the Minister that for the Central Authority and for the provincial Boards which will control the whole scheme, for the execution of the whole work, we will have only part-time personnel. What shall we do with this part-time personnel? Does the hon. Minister honestly think that part-time members will be able to carry out the scheme? After the day's work they would come for an hour and sit in their chamber or in some hall and have a cup of tea and discuss matters and then go home without really giving their mind and heart to this very important and essential work. Is this revolutionary piece of legislation going to be entrusted to these part-time people? A revolutionary is one who devotes his twenty-four hours, day and night, to a piece of work. Is this revolutionary enactment going to . . .

The Honourable Shri N. V. Gadgil: It is at the corner.

Shri H. V. Kamath: I am glad that it is so. The hon. Minister himself appears to take it light-heartedly. I would plead with him with all the seriousness and earnestness at my command that rather than proceed with this measure in this light-hearted and half-hearted, part-time fashion, I wish he gives up the whole scheme and frankly say that we cannot proceed with it at present and when we have got all the personnel and we have an idea of the work, we shall go full steam ahead. I suggest that this be shelved for the time being, put in cold storage and we will await better times. This amendment that has been brought is a slur on the people of our country. This question does not affect 20 or 30 people but the 300 millions of people of India. What is the good if we cannot produce 30 or 40 whole-time workers? I do not know with what face the hon. Minister has come to this House with this Bill and with the statement that no full-time members are available. What is the scope of this amendment? I shall refer to the original Act the Electricity (Supply) Act, 1948. The proposed amendments are in sections 1, 3 and 5. The existing provision in sub-section (2) of section 3 says:

"The authority shall consist of not more than six members appointed by the Central Government of whom at least three shall be full time members."

The amendment seeks to omit the last words 'of whom at least three shall be fulltime members'. If this amendment is carried, sub-section (2) would read thus:

"The authority shall consist of not more than six Members appointed by the Central Government."

They may be part-time, full-time or no time members. We do not bother how much work they will do for the scheme and what devotion they will bring to the work. The Chairman of the Central Authority will also be a part-time man. That will be the fate of the Central Authority.

Then, Sir, as regards mere drafting, though I would have liked to leave it to Mr. Naziruddin Ahmad to point out, I should say that 'full-time' has been omitted in sub-section (3), but the reference to "full-time" member in sub-section (5) has not been touched. I do not however bother about that, because, after the speech made by the hon. Minister today, we shall not get a

single full-time member. They will be happy now. They would prefer to work part-time everywhere, come to the office and sit there for a while and go home.

In sub-section (3) of section 5 there is reference to the Provincial Board. In the original Act the provision was 'All members of the Board shall be full-time members'. I do not know why we are watering down the whole scheme—I would not say nullifying the whole scheme: That will be uncharitable to the hon. Minister. But we are undoubtedly watering down the scheme of the Act. Now this tragic situation has developed. In the Provincial Boards where you were to have all full-time members, you will hereafter have none, and in the Central Authority also the same will be the position. That is the scope of the amendment. The Minister wants to electrify the whole country. Is this the way he is going to do that? I do not know whether we have anything in this Bill to gloat over or be happy about.

Mr. Deputy-Speaker: Is the hon. Member likely to take some more time?

Shri H. V. Kamath: Sir, I require some ten minutes more.

Mr. Deputy-Speaker: The House now stands adjourned till 2-30 P.M.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

Shri H. V. Kamath: Sir, if I were to sum up the substance of this Bill, I would call it not an amending Bill at all. It is an ending Bill. It neither amends nor mends, but it ends the Act which we passed last year. The electric power which we used to have in this hall failed at the very moment when we started discussion on this Bill.

Dr. P. S. Deshmukh (C. P. and Berar: General): That is by arrangement.

Shri H. V. Kamath: If it is by arrangement, so much the worse for it. The Act which we passed last year served in some little way to electrify the nation. This amending Bill can only petrify or mortify the nation, and therefore I am very much grieved that it has fallen to the lot of my hon. friend, the Minister for Works, Mines and Power, actuated though he is by the best of intentions, though he is full of enthusiasm, keenness and enterprise to take the country forward, to bring forward this new Bill. The Prime Minister is never tired of telling the nation, that we are living in the atomic age, but unfortunately we have to make a lot of leeway in order to catch up even with the electric age, while the West, that is, Europe and America, is already working for the atomic age. It has pained me very much that the little enactment which we passed last year to take us forward on to the electric age has got to be amended and has got to be virtually ended by this Bill. Why do I say that? If my hon. friend, the Minister for Works, Mines and Power, will only refer for a moment to the Act passed last year and take up Chapters III and IV of that Act, the provisions relating to the constitution, composition and powers and functions of the Provincial Boards—he will find how much work and how much responsibility has been assigned to these Provincial Boards. Does he really think that part-time members can discharge that responsibility, that obligation in toto, to the satisfaction of the Government? I for one am very doubtful on this point. The time has come for us to bid goodbye to half-baked plans, half-hearted measures and part-time personnel.

The Honourable Shri N. V. Gadgil: Half-baked politicians also.

Shri H. V. Kamath: I overhear the Minister saying half-backed and part-time politicians. I agree entirely with him. We cannot have half-baked men whether it be in politics, art, or literature, or industry or commerce or anything else if we want to march ahead. By this Bill today we are assigning the very essential task of electrifying the country, electrifying the provinces, to a handful of part-time people. Our country will only go half-way, I do not know where. There is a saying that the way to hell is paved with good intentions. We have got the best of intentions. We can show this to the people and say, here is an Act which is for the well-being of the nation. But about the execution of those intentions? The eminent writer, H. G. Wells, in his book "Work, Wealth and Happiness of Mankind" has stated that if only the electric and other power which is at the disposal of mankind is utilised in a scientific and socialist manner for the benefit of society and not with a profit motive, no man or woman need work for more than two hours a day. Unfortunately, we are still working in drudgery day after day. That is our tragedy.

Now, Sir, coming to the details of these Chapters III and IV, Chapter III, section 5, sub-sections (4) and (5) of the Electricity Supply Act, 1948, it says that of the members of the Provincial Electricity Boards, one shall be a person of proved administrative ability and commercial experience, one shall be an electrical engineer with wide experience and one shall be an accountant with experience of the electricity supply industry or other public utility. Today, the speech of the hon. Minister in moving this amending Bill was a confession of failure, an abject failure, even to find one electrical engineer for these Provincial Boards, one whole-time engineer for each of these Electricity Boards.

Mr. Deputy-Speaker: There are a number of provinces. It is not a question of one engineer.

Shri H. V. Kamath: I am coming to that. You have rightly drawn my attention to the fact that what is referred to in the Statement of Objects and Reasons is a general shortage of engineers. Now, if we work on the basis of this Chapter III, how many engineers do we want? The Act does not stipulate more than one electrical engineer for each provincial Board. Including States and States Unions, we will have about 25 provinces and not more. That is to say, we do not have 25 electrical engineers in the country today to take up this work on a full-time basis.

What is this, if it is not a total confession of failure to attract the best talent in the country by offering them proper incentive and the best terms?

As regards the Central Electricity Authority the Bill is silent on the point as to how many should be electrical engineers and how many should be others. There is nothing in the Act to throw any light on this point. I take it that the Central Electricity Authority may have only one electrical engineer among its members. I wanted this point to be made clear in the morning. This talk of shortage of engineering personnel is merely a camouflage, an excuse or a cloak to conceal the failure of the Government to constitute this very essential body in the provinces as also at the Centre. This is not the way to enthuse the people of the country. An Act was passed 18 months ago and it is yet at a standstill or in a sort of stalemate. Who is responsible for this state of affairs: who is at the root of the whole trouble? It is for the Government to find out and if they do not find it soon enough they will have themselves to blame.

In the morning I had occasion to state that even today Government offers better incentive to foreigners than to our own men. The other day Dr. Bhatnagar addressing the members of the Assembly had occasion to make a similar statement. He said that it was a fact, it was a reality—for good or ill

I do not know,—that even today a degree of a foreign university or a foreign qualification has got more value in India than an Indian academic qualification.

An Honourable Member: Even foreign dress counts.

Shri H. V. Kamath: A certificate of a foreign country carries greater weight than one of our own. That is the unfortunate state of affairs. Coming to the powers and duties of the provincial boards, if the House will turn to Chapter IV, they will see.....

Mr. Deputy-Speaker: Those clauses are not touched by this Bill.

Shri H. V. Kamath: I want to show to the House and to you Sir, how part-time members cannot take up this work satisfactorily.

Mr. Deputy-Speaker: This Act was passed only last year and hon. members must be aware how important the measure is.

Shri B. L. Sondhi (East Punjab: General): Now it is an absolute *volte face*. Last year they said that they had so many people and now they say they have not.

Mr. Deputy-Speaker: Hon. Members are aware what important functions the provincial boards have to discharge and it is not necessary to go into them.

Shri H. V. Kamath: I am not going into details, Sir. Looking at the chapter one realises how much responsibility and work has been assigned to the provincial Boards. Last year when the Act was placed before the House the Minister had no apprehensions at all. When he moved the Bill in the House and commended it to the House he called it a revolutionary piece of legislation. I do not know what "revolution" means to him. At that time we wished him very well indeed and last year he had no apprehensions whatever on the score of personnel or the adequacy of the work to which he refers to in the amending Bill today. Therefore it is that I said that Government has, in this matter at least, acted without foresight, without even caring to assess the potentialities of the country in men, material and finance. It is a very bad miscalculation and people will think that the Government is drifting or groping in the dark, that they are living a sort of hand to mouth or precarious existence, trying one thing today and giving it up the next, functioning more or less by the process of trial and error, without a thought for the people at large. That is not the way that our revolutionary free India or the government of the people must proceed, if we want to place our nation on the high road to prosperity, where men shall have life, and have it more abundantly.

One word more and I have done. If you are going to man these provincial Boards and the Central Authority with part-time members, with so much work given to them, I can only say that it is more or less like assigning the work of a horse to an ass. I do not think that asses working part-time are ever able to discharge the duties and functions of horses. I for one would not mind the scrapping of the Boards for the time being and Government running it on their own bureaucratic basis or secretarial basis, with I.C.S. officers as chairmen of the Boards. I would prefer that to acting in this half-hearted fashion. It is high time that we stop talking of revolutionary measures. When you want to boost up a piece of legislation or commend it to the people you say "Hear is a piece of revolutionary legislation." But when it comes to putting your fervour into its execution, you fail in your endeavour. Let not the Government delude themselves with the belief that by commending a piece of legislation to the people as a revolutionary one, people will accept it. Those times are gone. You will have to convince the people not with words or slogans but with deeds, in which you will have to put your whole revolutionary fervour. Unless you put your hearts into it you cannot induce the people to put theirs into it.

Shri Mahavir Tyagi (U. P.: Genera): Putting the heart will not create electricity, my friend.

Shri H. V. Kamath: That is why people are feeling apathetic and think that Government is complacent. It is easy to mislead some people for some time, but you cannot fool all people for all time. You should show to the people that you are revolutionary in deed and not in words alone; or else people will not accept you. What happened in Bombay? In Bombay they cried for some little salt but instead of sending some trucks of salt you sent trucks full of soldiers.

Mr. Deputy-Speaker: Are you going to convert this discussion into a general discussion on the Finance Bill? That is to come three months hence.

Shri H. V. Kamath: Sir, the hon. Minister in his speech this morning used the grand words "revolutionary piece of legislation". I would only say this: "let us not any more delude ourselves" and fool the people by commending to them so-called revolutionary measures. Let us put more heart, more of revolutionary fervour into our actions and in that spirit if we go ahead all will be well with us. Otherwise if we only talk revolution and act reaction, I am sure worse will befall us in the near future, which God forbid, but I cannot help uttering this warning on this occasion.

Sir, I record only my partial support to this Bill.

Dr. P. S. Deshmukh: Sir, there may be many members of this House who may not share the vehemence of my friend who just sat down, but I am sure many of us share the disappointment felt in having to support a Bill of this nature. The Bill itself is very simple. It merely refers to the addition of a section and the omission of the word "full-time" from one or two more. But even though the contents of the Bill are so simple, the effect is certainly disappointing inasmuch as the hopes that were held out to us are now doomed to failure and this failure is admitted by the hon. Minister himself.

Shri Mahavir Tyagi: What failure?

Dr. P. S. Deshmukh: I think my hon. friend has not read the provisions of the Bill which was passed in this House and does not recollect the speech which the hon. Minister made when the Bill was debated in the House. The question is that when we passed the original Bill of 1948 a very large paraphernalia of an organisation was to be brought into being forthwith for the sake of achieving the greater progress and prosperity of the people. It was to start in the Centre and extend to every Province. Whereas in the original Bill the work was going to be assigned to more or less independent authorities consisting of about six persons, three of whom were to be full-time people, now we find that we have reverted to such circumstances and come to such times that the whole of the important and very essential work that we had contemplated and was going to be assigned to these people is now to be performed by those people whom we sometimes defend as being "overworked". My friend Mr. Kamath has elaborated the point a great deal, and one may not probably agree with him in the excessive terms which he sometimes used in condemning the Bill. Nonetheless, when we find that the important work which was going to be assigned to three full-time people and an independent Board not only in the Centre but in all the Provinces can now be carried on by much fewer people, doing it only part-time, then we must admit that there has been a very great alteration in the whole plan. And the plan was not very old. Not more than a year has passed since the original Bill was enacted. Since that time, during the course of a year, we have now come to a position when we think that it is not only not necessary to have the Authority and the full-time members, not even to reduce the Board or Authority to one full-time man, but it is sufficient to

have only part-time work assigned to the ordinary staff that we have in the Ministry of Works, Mines and Power. Now this lends itself to one or two inferences—either these people were there who had not any full-time work, or if they had full-time work then we have no objection if the work now being given to them remained undone. I say this because I hold that it is impossible for any human being to do anything more than full-time work. If they are capable of doing part-time work the inference is clear that they did not have full-time work so far. So even from that point of view it is disappointing. When a Minister comes and tells us of a great many things that are going to happen in the immediate future, the disappointment is natural when we find that not only all that we expected is not coming up but the whole thing is going to be more or less put into cold storage. We have not much complaint with the hon. Minister himself. Our quarrel is with his advisers. Who were the people who held out to him the vision that for the development of electricity we would require an independent Authority not only in the Centre but in all the Provinces? And who are these gentlemen who are now advising him that the whole of this important work which was going to contribute to the progress and prosperity of India to such a great degree can now be done by themselves? Probably in the office files there may be suggestions about the giving of some additional allowances for this extra work. Sir, to what extent they are capable of more or extra work is a question which I need not ask. Therefore, the House and the hon. Members are entitled to feel that in passing the original Bill we had hoped for very much more than what the hon. Minister can promise now. From that point of view I think I am not saying much if I say that our disappointment is justified. We applauded the hon. Minister when he brought forward scheme after scheme and placed before us dam after dam, but all these dams are getting jammed and they are all staying where they are.

The Honourable Shri N. V. Gadgil: They are progressing.

Dr. P. S. Deshmukh: I would be very happy if that is so. But the Bill points elsewhere. Whosoever is responsible for that, we have got to admit the fact that the rosy picture that was drawn before our eyes and for which we were feeling so elated has gone by the board and that elation was misplaced. At present time, at any rate, we have arrived at a stage when we must go backwards and think of slowing down the progress rather than proceed with the schemes and big projects. I must point out that this is also one of the instances of speedy, if not hasty, legislation. It is hardly one year since the Act was passed and we are required to amend it, for some important reasons—but reasons merely entailing omissions and correction of clerical errors. There is still one error which will probably require the hon. Minister to come before this House again. I would refer to sub-section (5) of section 3. As my friend Mr. Kamath pointed out, after the present Bill is passed, there is not going to be anybody who will be called a full-time member of any of the Board either in the Centre or in the Provinces. Yet in one place here you find the word "full-time".

Mr. Deputy-Speaker: I think there is absolutely nothing incorrect here. There may be a full-time member. This amendment does not preclude the appointment of a full-time member. If there is a full-time member that man is bound to do this.

Dr. P. S. Deshmukh: I am sure, Sir, you will revise your opinion when you hear me fully. The word "full-time" is going to be omitted from other places and sub-section (5) of section 3 applies only to a full-time man. And since there is not going to be anybody called a "full-time member" under this

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Bill, whatever is contemplated and laid down to apply to a full-time member will not apply to any of the members who are appointed.

Mr. Deputy-Speaker: Whether a man is called a full-time officer or not under the Act, we know what a full-time man is.

Dr. P. S. Deshmukh: If you permit me Sir, to read sub-section (5) of section 3 you will be able to appreciate my meaning. It reads:

"No full-time member of the Authority shall be directly or indirectly concerned or interested in or have any share or interest in any company or other body corporate or an association of persons (whether incorporated or not), or a firm engaged in the business of supplying electrical energy or fuel, solid or liquid, for the generation of electricity."

What does this mean? It is no use the hon. Minister ordering anybody in his written order to call a full-time man. Here is a disqualification applicable to only a full-time member and since there is no provision for a full-time member in the Act, the disqualification cannot apply to anyone under the Act.

Mr. Deputy-Speaker: It will apply.

Dr. P. S. Deshmukh: No, Sir. It is impossible. It can never apply.

Mr. Deputy-Speaker: All right. He may continue.

Dr. P. S. Deshmukh: If a member is hereafter interested in any contract which we did not want the defence that section 3(5) does not apply to him will be open to him in a court of law. I am prepared to say it most emphatically that this defence will be open to him viz., that there used to be under the old Act a full-time member; but under the amended Act no one can be a full-time member, he is therefore not a full-time member under the present Act and therefore what would or was to apply only to a full-time member will not apply to him. God forbid that such a contingency should arise. In any case what I was referring to was this, namely, the way legislation is being passed in this House. We are not going to have, as far as possible, full-time members and we are going to remove, from more than one section, the word "full-time" but in one solitary clause we are going to retain it. This I think is a mistake, because if we are going to delete the provision for full-time members, the disqualification of being interested in any contracts or being a shareholder in any company should be made to apply even to those persons who are not full-time members.

Mr. Deputy-Speaker: I am afraid we are labouring this point too much. The hon. Minister does not say that he doesn't want full-time members; if full-time members are available he will be only too glad to have them and in that case such full-time members shall have to abide by the restriction. All he says is that for want of proper men there may or may not be full-time members.

Dr. P. S. Deshmukh: I don't wish to argue against you, Sir, but I am sure my meaning is absolutely correct and if this clause is not to be rendered absolutely ineffective the hon. Minister will have to come forward with an amendment dropping the word "full-time" from this sub-section also.

Excepting what I have urged, there are not many contentious points so far as the Bill is concerned. It is a simple Bill and I don't think there is much that can be said against it. I therefore don't oppose it. I wanted merely to voice my disappointment at the way in which we had expected certain things to happen but which were not now likely to take place. If the Minister comes forward and says that this is a sort of work which can be done by part-time engineers, then I think we are entitled to assume that the progress which was held out as imminent is not going to be accomplished and we are not going to see those prosperous days so early.

Shri H. V. Pataskar (Bombay General): Sir, I wanted to clear a misunderstanding. Section 3(2) of the Electricity (Supply) Act requires that three out of the six members shall be full-time members. What is sought in the Bill is to remove that restriction that three of them shall be full-time members of the Board. But it would still be open to Government, whenever the occasion arises, to appoint some members as full-time members; that contingency is not excluded. I would like to point out to my hon. friend Dr. Deshmukh that the result of the amendment of Section 3 will be that it will not be obligatory for Government to have three full-time members, but whenever there is enough work and men available, or for whatever other reasons Government think fit to do so, it does not prevent them from having a full-time member.

Dr. P. S. Deshmukh: But will the disqualification under sub-section (5) apply to an ordinary non-full-time member?

Shri H. V. Pataskar: No, no. It will certainly apply to a full-time member but probably that disqualification may be made applicable even to a part-time member.

Dr. P. S. Deshmukh: How can it?

Shri H. V. Pataskar: The Bill is a simple one. It gives three reasons for being introduced. One is that there is an acute shortage of engineering personnel and therefore the personnel available may be taken part-time for this work and also utilised for some other project also. Then it is said that there is inadequacy of work in the early stages. That does not mean that they are going to give up any projects but that in the early stages of the project probably there may not be full-time work for the members. The third reason is the urgent need of economy. In view of these, the Bill seeks to remove the liability on Government to have at least three out of the six to be necessarily full-time members of the Board. Therefore, to my mind, this is a rather simple proposition and does not merit so much vehement opposition as I found emanating from certain quarters. I think the object is the same as I have explained. I don't know what Government intends to do, but the amendment proposed under the Bill will certainly not come in the way of Government appointing full-time members whenever occasion arises for doing the same.

Shri Mahavir Tyagi: Sir, as far as I am concerned my reaction to the Bill has been rather good. I feel there is nothing bad in diluting the previous Act and making it less expensive. I only differ with the Statement of Objects and Reasons. As far as I can understand, the need for this Bill is not on account of scarcity of technical or electrical personnel. It is in fact on account of the lack of something else which produces energy. There is another energy which produces electric energy, and that is gold and silver. In fact, we lack silver. It seems we have no finances to run these big projects. Why don't you come forward frankly with the plain fact that you have no money to run these big projects? There is no money and hence all this trouble. My feeling is that in the beginning, as soon as we got independence, we started soaring too high, our heads got swollen. I don't mean the Ministers' head—the heads of the whole nation were swollen and it was owing to our swollen heads that all our schemes were big. We never cared to know the volume of money that we had at our disposal and we never cared for the strength of the pocket, with the result that we went on spending on everything that first occurred to us. We began to behave as though we were the Government of the U.K. or U.S.A. and wanted to compete with them in all our schemes, in all dignity, pomp, honour and all that and we went on spending money like anything. The result is that today we understand that even the most essential things and essential programmes are at a standstill. It is really a bad thing. I wonder if our Ministers have as the guardians of the finances of the

[Shri Mahavir Tyagi]

country and as the guardians of the Government of the country, today really begun to realise that they should not spend money on or make plans for schemes which they can't complete. Here the hon. Minister has come up with this proposal after realising his financial weakness and the financial weakness of the country. I can well understand that. He has done the best thing; it is no use our spending money on schemes which we really can't complete. Everybody in the country knows that the country's finances are running towards bankruptcy.

Some Honourable Members: No.

Shri Mahavir Tyagi: Yes, they are. In fact, if that fact has dawned on you, I am sure you will please mend your ways in respect of other items also and see that our finances are run on absolutely orthodox economic lines. As far as this part-time business is concerned, it is only just to reduce expenditure. Mr. Kamath has put too much stress on part-time and full-time. In fact, without money it is no use wasting time. It is primarily because of lack of money that the big projects have been postponed. It is a pity. There were many other things which could be postponed instead. But even if electricity is postponed, let not the House be unduly alarmed over it. After all, even the little source of electricity we have, has not, I think, been properly employed or utilised. Most of the electrical energy goes to luxury. It is not the villagers who use electricity but the urban population. It is mostly capitalists who use it to run their industries. Villagers neither use electricity nor are their labour hours going to be reduced nor leisure hours increased. They do not get any surplus leisure hour. It does not save the time of the labourer. Electricity only saves the time of the urban population who live in luxury and comfort. On account of the lack of electric power the nation as a whole will not suffer. Unless you plan the electricity programmes in such a way as would benefit the villagers, I do not understand how the country or the villagers will suffer. They never rejoiced over these plans. It is only members of the Legislative Assembly who thought that this energy will bring gold. But it does not really bring it. It will bring gold only when it is usefully employed. So my submission is that even if electricity does not come in at this stage, it will not do any very great harm to the country. This energy has after all been mostly helping the exploiters in exploiting labour more and more. If electricity does not come, people will work with their own hands. In fact, what the nation needs today is human energy. Employment of human muscle and hands is the most essential thing today. That is what the nation is lacking. Human energy is not being fully employed. We are fast becoming a nation of idlers and lazy talkers. I submit that the more chance there is for the people to work with their own hands and muscles, the more the nation will create wealth, and thus enable the State to launch on big projects. America won't give you money, nor will U.K. or any other nation. Money can only be created and it can be created only by creating new values and values come only when the entire nation begins to work and exert itself. I think our realisation, that we have no money and we cannot therefore have these big projects, will perhaps induce the nation to work harder. It is only through hard work and labour that we would be in a position to complete these big projects.

There is one more point which I want to bring to the notice of the hon. Minister, with your permission. In the original Act there was a sub-section to section 3 which said:

"No full-time member of the Authority shall be directly or indirectly concerned or interested in or have any share in or interest in any company or other body corporate or an association of persons, (whether incorporated or not), or a firm engaged in the business of supplying electrical energy or fuel, solid or liquid, for the generation of electricity."

This was a healthy clause. If the whole-timers go, shall I take it that the part-timers who will now be on this Authority will be enjoying a free licence to contract relationship with other concerns?

The Honourable Shri N. V. Gadgil: The original Act contemplated that the number will be six, but out of that number, three must be full-timers, and this clause would govern those full-timers. What has been sought to do now is that the statutory obligation of having at least three full-timers is being removed and the matter is left to discretion. You can have full-timers—two, three or even more—but to the extent there are full-timers this clause will govern them.

Shri Mahavir Tyagi: My submission is that previously when there used to be three full-timers, at least there were three persons who were not connected in any manner, rightly or wrongly or foully, with any other business. Now, when there are no full-timers in the Authority, all the members may be free to contract relationship with other companies. The Board will now be composed of non-full-timers and I want to know if all the members will be free to negotiate their relationship with other companies. The hon. Minister is very intelligent and really he should be able to understand what I mean. Up till now, there were at least three persons who had nothing to do with any other concern and who looked only to the interests of the Authority and to no other interests. Now a free licence is given to everybody to contract relationship with other electric concerns and yet be in the Authority. That is a dangerous thing which you may please guard against. That is all I want to say.

The Honourable Shri N. V. Gadgil: I have never seen in my parliamentary life of fifteen years so much eloquence for such a long time wasted on such an unimportant subject.

Shri H. V. Kamath: Is it "wasted", Sir? It is for the Deputy-Speaker to judge.

Mr. Deputy-Speaker: It is for the House to judge.

The Honourable Shri N. V. Gadgil: The Bill is very simple and I am surprised that it should have caused so much misunderstanding, particularly in the minds of those who have been good supporters of the original Bill. My hon. friend Mr. Kamath said that this is a reactionary Bill, that the Government has been sitting idle and that there has been no progress. I would only give him some figures. Electricity generated at the end of 1947 was 4,073 kwt. hour; at the end of 1948 it was 4,575 kwt. hour and at the end of the year 1949, if the rate that has been realised up till now is maintained, it will be 4,900 kwt. hour. In other words, in 1948 there was an increase of 12 per cent. and in 1949 an increase of 20 per cent. over the 1947 figure. If my hon. friend is really interested to know the progress that has been made by the Central and Provincial Governments, I would refer him to the report published by the Public Electricity Supply of India—Statistical Summary for the year 1948.

My hon. friend Mr. Kamath accused me in the beginning of lack of ardour and enthusiasm; though later on he recovered and said that I was full of vigour and vision.

Shri H. V. Kamath: On a point of personal explanation, that was not the expression I used. I said that it would damp the ardour of the people.

The Honourable Shri N. V. Gadgil: It can be verified from the report.

Shri H. V. Kamath: I said it would damp the ardour of the people; not that the ardour of the hon. Minister has been damped.

The Honourable Shri N. V. Gadgil: The point is that the very Act in the first section contained the provision that all the machinery contemplated in this Act should be brought into existence in a period of two years. If at the time it was thought that we had all the equipment, material and other requirements ready immediately, surely the section would have been worded otherwise and the whole Act would have been brought into operation immediately. There must have been some object in putting this period of two years and I cannot imagine that my hon. friend Mr. Kamath and other friends who participated in the discussion could not realise it.

So, it has been stated in the Statement of Objects and Reasons that there is a shortage of technical personnel. My hon. friend does not agree with me. The Boards and the Central Electricity Authority require technical personnel of a very high calibre. If the House permits, I might inform the House that even in the matter of recruiting personnel for the Central Electricity Commission the Government of India met with many difficulties and we could not for months together get the right type of persons. In fact, I went out of my way and requested many Provincial Governments. They were unwilling; ultimately it was with great difficulty that we found two men and now they are working in the Central Electricity Commission.

When this Bill was introduced we had before us the views of the Provincial Governments—how keen they are to have provincial electricity boards and how difficult they find to have men of the requisite calibre and requisite qualifications. Now there are smaller provinces like Orissa and certain Centrally Administered provinces and it would be a great financial burden on them if we allow the provisions which are now sought to be amended to continue.

To some extent what my hon. friend Mr. Tyagi said is correct. In 1948 if the head of the Government was swollen and if this Act was passed, it was with the full consent of all the hon. Members of this House. If certain assumptions were there, they were shared by the whole House. If there had been any exaggerated idea about our equipment, well that idea was not exclusively shared by the Government. But that is not the fact. The fact is that it is the desire of this House that there should be rapid industrialisation and it can only be possible if there is cheap and adequate supply of electricity and towards that end all the activities have been directed—whether they take the form of river valley schemes or rural electrification, for electricity is as much required for industry as for agriculture and for domestic use. Now, if the whole object of the main Act was to put it on a rational basis and to increase the supply of electricity we must have a very good agency in each province and that was the main object of the constitution of provincial boards. In order to do that, because it was found impossible to have six full-time members apart from financial considerations, what is being sought to be done by this Bill is that the statutory obligation to have at least three members in the Central Electricity Authority and on the provincial boards is being removed and the whole thing is reduced to discretion. There is nothing to prevent, even after the amendment is accepted, for any Provincial Government to have all the six full-time members, if they get them. There is nothing for the Central Government to have not only three full-time members, but all the six as full-time members, if they get them. So, Sir, this is a very simple proposition and if the House is really earnest, as I know it is earnest, that the provisions of the main Act should come into operation immediately and what is being sought to be done should be accelerated, then I would only request this House to accept this Bill.

A point was raised by my hon. friend Dr. Panjabrao Deshmukh about sub-section (5) of section 3. As it is, Sir, the Central Electricity Authority must

have at least three full-time members and the rest can be part-time members. Now by removing this statutory obligation, there may be one or two full-time members, but if there is one then there is a justification for retention of sub-section (5) of section 3. All the same, Sir, the spirit in which this criticism has been offered will be borne by me in making appointments.

Now my hon. friend Mr. Kamath said that this is not an amending Bill, but an ending Bill. I am very sorry that he should have said so. Suppose I withdraw this Bill and do not proceed with it. The Provincial Governments will not be able to constitute the provincial electricity boards although the Central Government may with some difficulty do so. But that will not serve the purpose. The purpose is as defined in the preamble of the main Act and what is being suggested is the right agency which can be composed much quicker than if the amending Bill is not accepted. That is what is being proposed, Sir. A bit was aimed at part-time members by my friend Mr. Kamath and he said that if the full-time members are horses the part timers will be asses. I take a better view of our officers and of our people.

The point is that in the initial stages there would not be enough work for the Central Electricity Authority. One of their functions is to arbitrate. In the course of the last one year, we found that there were just four or five cases. For this purpose a high judicial authority is required. Am I to pay him Rs. 3,000 P.M. for the whole year or shall I recruit him for a week or two when all the cases will be heard. It is a simple proposition. Therefore, on grounds of economy as well as on grounds of shortage of technical personnel, I have brought this Bill and I can assure the House that it never occurred to anyone of us that this Bill would be interpreted as an attempt to sabotage the provisions of the main Act. Nothing of the kind; on the contrary we are doing our best and if any further assurance is necessary, I can assure the House that I shall certainly remember the spirit of the criticisms so far as sub-section (5) of section 3 is concerned and do my best to see that the Provincial boards are brought into existence as early as possible.

Mr. Deputy-Speaker: The question is:

"That the Bill to amend the Electricity (Supply) Act, 1948, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: There are no amendments to this Bill, except one or two which were received at 11 A.M. and which are not admissible. I will, therefore put all the clauses to the House.

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. Deputy-Speaker: Motion moved:

"That the Bill be passed."

श्री लक्ष्मीनारायण साहू : माननीय उपवाचस्पति जी, इस विद्युत के प्रस्तुत विधि में मुझे दो बातें कहनी हैं। पहले तो मुझे एक संस्कृत का श्लोक याद आता है :
गच्छत्येकेन पादेन निष्ठत्येकेन बुद्धिमान्

अर्थात् जो बुद्धिमान् व्यक्ति होते हैं वह एक एक पग आगे बढ़ाते हैं। लेकिन हम लोगों की जो यह सरकार है उसका दिमाग खराब हो गया है। हमें सब काम करना है इस लिये जितनी बड़ी बड़ी योजनाएँ हैं, हम लोगों ने सब शुरू कर दिया और उसका नतीजा यह हुआ कि हम देखते हैं कि हम लोगों के पास आदमी नहीं है, रुपया भी नहीं है, लेकिन मैं यह भी कहना चाहता हूँ कि जितने आदमी हमारे पास हैं उनका संधान भी हम लोगों ने नहीं किया। मैं तो कह सकता हूँ कि इस हाउस में कम से कम एक ऐसा आदमी है जो एलेक्टिसिटी (electricity) के बारे में बहुत प्रसिद्ध आदमी है। भारत में जब चार पांच आदमियों का नाम एलेक्ट्रिक इंजीनियरिंग (engineering) में लिया जा सकता है तब इस हाउस में केवल एक आदमी है बी० दास। मेरा कहना यह है कि इस समय जब ऐसी परिस्थिति हो गई है कि आदमी नहीं मिलते हैं, तो कांस्क्रिप्शन (conscription) क्यों नहीं करते। कांस्क्रिप्शन करके आदमी लायें। बी० दास को लायेंगे, और जितने भी आदमी होंगे उनको लायेंगे।

The Honourable Shri N. V. Gadgil: He has become a politician.

श्री लक्ष्मीनारायण साहू: He has not yet forgotten electrical engineering. He is still running electrical business.

दूसरी बात मैं यह कहना चाहता हूँ कि हम लोग पार्ट-टाइम वर्कर्स (part-time workers) जब रखेंगे तो पार्ट-टाइम वर्कर्स रख कर मैं समझता हूँ कि जौबरी (jobbery) बढ़ जायगी। ऐसा करना गवर्नमेंट के लिये जायज नहीं है। गवर्नमेंट सर्वेण्ट्स (Government servants) जब रहेंगे तो काम करेंगे, पेन्शन (pension) लेंगे तब चले जायेंगे। यह नहीं होगा तो थोड़े दिन के लिये हम रखेंगे फिर उनको एक्सटेन्शन (extension) देंगे। एक्सटेन्शन देने का भी इसमें तरीका आ जाता है। इस लिये मैं चाहता हूँ कि जब वह पांच बरस काम कर लेंगे तो पांच बरस के बाद दूसरे आदमी जरूर तैयार हो जायेंगे तो क्यों उन्हें एक्सटेन्शन दिया जाय। मैं पूछना चाहता हूँ कि हमने बहुत से आदमियों को, इस देश के नवयुवकों को बाहर भेजा है, क्या वह लायक नहीं हो जायेंगे। तब क्या जरूरत है कि हम कहें कि इन लोगों को पांच बरस तक, दस बरस तक, या बीस बरस तक रखे रहें। इसी लिये मैं यह प्रार्थना करना चाहता था कि आखिर में हम इतना और जोड़ दें कि

"That in clause 5 of the Bill, in the proposed section 8 of the Electricity (Supply) Act, 1848, the words 'but not more than twice' be added at the end".

पांच बरस से दस बरस हो गया, इसके बाद हम उनको नहीं रखेंगे। इनको मृत्यु भी नहीं आती है। इस लिये मैं चाहता हूँ कि जरा इसको सोचना चाहिये और विचार करना चाहिये।

The Honourable Shri N. V. Gadgil: Should that be applicable to the membership of this House also?

श्री लक्ष्मीनारायण साहू: कर सकते हैं, आप चाहें तो कर सकते हैं। मैं यह भी कहना चाहता हूँ कि जितने आदमी हैं, मान लीजिये कुछ आदमी इंजीनियरिंग पढ़ते हैं, इंजीनियरिंग पढ़ने के बाद वह फिर दूसरी लाइन में भेज दिये जाते हैं और जो इंजीनियरिंग नहीं जानते हैं उनको उसमें भेज दिया जाता है। एलेक्ट्रिकल इंजीनियरिंग जो पढ़ कर आते हैं उनको स्कूल में भेज दिया जाता है, जो एग्रीकल्चर (Agriculture) पास कर के आये हैं उनको भी स्कूलों और कालेजों में भेज दिया जाता है। वहां वह मास्टरी करते हैं। आखिर यह सब क्या है। यह इसी लिये है कि गवर्नमेंट का बन्दोबस्त खराब हो गया है। मैं चाहता हूँ कि जो साधारण कालेज हैं उनको बन्द करके जब हमें एलेक्ट्रिकल इंजीनियर्स की जरूरत है तो ऐसे कालेज ज्यादा बनायें। गवर्नमेंट उनको क्यों नहीं बनाने देती है। जब तक यह नहीं होगा, तब तक हम धीरे धीरे चलते रहेंगे और सारा काम यों ही पड़ा रह जायगा। मैंने इस हाउस में एक बार कहा था कि आप जितने डैम (dam) बनाने जा रहे हैं वह सब डैम्ड (damned) हो जायेंगे। अगर हम ऐसी हालत में आगे बढ़ें तो गिर पड़ेंगे। इस लिये मैं चाहता हूँ कि हमें इसका सोच विचार करके सारा काम करना चाहिये। हमें एक एक कदम सोच सोच कर बढ़ाना चाहिये। इस लिये मैं केवल इतनी प्रार्थना करना चाहता हूँ। मैं इसका विरोध नहीं करता हूँ लेकिन इतना कहना चाहता हूँ कि हमें होशियारी से बढ़ना चाहिये।

(English translation of the above speech.)

Shri Lakshminarayan Sahu (Orissa: General): Sir, I have to say two things in connection with this motion before the House about electricity. I am, to start with, reminded of a *shloka* in Sanskrit:

Gachhatyeken padena tishthhatyeken buddhiman.

It means that wise people advance step by step. But the brain of this Government of ours has got deranged. Since we have to do everything we have launched all our big projects with the result that we find that we have neither men nor money. But I also want to say that we have not been able to utilize the services of whatever men we have. I can say that there is at least one man in this House who is well-known in the field of electricity. Whereas just four or five persons can be named in the field of electrical engineering in India, there is just one man in this House, viz., Shri B. Das. I want to say that when such a situation has arisen that men are not available why not resort to conscription? Men should be provided by means of conscription. Shri B. Das will be brought in and all other available persons will be brought in.

The Honourable Shri N. V. Gadgil: He has become a politician.

Shri Lakshminarayan Sahu: He has not yet forgotten electrical engineering. He is still running electrical business.

The second point that I wish to raise is this that if we engage part-time workers this would encourage jobbery. Such a course of action is not proper for the Government. Government servants will work while they are there

[Shri Lakshminarayan Sahu]

and will go when they get a pension. If this is not done we shall be engaging them for a few days and then giving them extension. Then there is the method to be followed in giving extensions. I am of the opinion that when they will have worked for five years other men will certainly have received the training. Then why give them the extension. I want to ask whether the large number of youngmen we have already sent abroad will not become fit enough. Then, where is the need for us to say that we shall extend the employment of these persons for five, ten or twenty years. Hence, I wanted to submit that at the end we should make the following further addition:—

"That in clause 5 of the Bill, in the proposed section 8 of the Electricity (Supply) Act, 1948, the words 'but not more than twice' be added at the end."

Instead of five years we make it ten years; beyond that we will not keep them. There is not even death for them. Hence, I want that we should think over and consider it.

The Honourable Shri N. V. Gadgil: Should that be applicable to the membership of this House also?

Shri Lakshminarayan Sahu: You may do so, if you like. I also want to draw your attention to another point. There are, for instance, some people who are engaged in the study of engineering. After they have studied engineering they are sent over to some other line while those who do not know engineering are turned over to this side. Those who come after having studied electrical engineering are sent to a school. Those others who have come after having done studies in agriculture are also sent to schools and colleges where they work as teachers. After all, what is all this? This is because the Government's administration has deteriorated. I want that if we are in need of electrical engineers we should close ordinary colleges and start more of the other type. Why does not Government let them be started? Until this is done we shall be proceeding at a slow pace and the entire work will remain as it is. I happened to remark in this House once that all the dams that you are going to construct would be damned. If we advance in such a position we would fall. Hence, I want that we should embark upon all this programme after full consideration. We must take every step after full deliberation. This is all that I wish to submit. I do not oppose it but I would say that we should advance with care.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I accord my support to this Bill. With regard to the misgivings which have been freely expressed in this House, I do not share them. Of course, it was true that the Government was rather a bit optimistic in their approaches to problems, but the whole country was with them and the whole House also cheered them and supported them. They would have been false to the country if they did not invite and accept some of the enthusiasm which was expressed in the House.

With regard to the interpretation of the words "full time", they still remain in sub-section (5) of section 3 of the parent Act and I think there will be no difficulty at all. In fact when we delete the condition of full time members, as we do in clause 3, we remove the expression in two places, but retain the expression in another place, sub-section (5). The result of that would be that this would indicate that the appointment of full-time members as well as part-time members would not be prohibited; rather the words full-time in sub-section (5) would indicate that the Government would be enabled to appoint full-time members as well as part-time members. Now if the words "full-time member" is retained in sub-section (5), the effect of that would be that if there are full-time members, sub-section would apply to them. It would not be possible to interpret this Act with reference to what is now existing, that is, after the amendment. After the amendment the

Act is to be read as it is, without reference to its past history. That is a mode of interpretation which is not proper in interpreting a statute. In interpreting the statute as it would stand with the amendment, it would not be proper to look into the Act and see what was before. That was laid down in the Privy Council case of Premila Varma and that is a leading case and now the Act, as amended, will have to be looked into and not the Act as it stood previously, in interpreting the present amendment.

Sir, something has been said about pitfalls in the scheme and when Mr. Kamath began to speak the electricity failed. It may be due to the fact that Mr. Kamath was responsible for the failure of the electricity. (An hon. Member: How?) It was merely an accident and as soon as he stood up the electricity failed, but there is another kind of accident which appears in the Act itself. When the original Act was published, it was published without the part of the list of sections, of the heading, the Preamble, sections 1, 2, and section 3, sub-sections (1) to (5); that was entirely omitted. I have got the original Act.

Shri M. Tirumala Rao (Madras: General): Why don't you give notice of amendments?

Mr. Naziruddin Ahmad: That was another accident. The earlier part of the Act as it was printed is missing.

Mr. Deputy-Speaker: That is an indication that those clauses will have to be amended later.

Mr. Naziruddin Ahmad: Yes, Sir. In fact the printer had the premonition as to what was coming and so he omitted them, but later on that part which was omitted was reprinted and the whole Act has now to be read in two different instalments. However, that is a minor printer's devil. There will be no difficulty in interpreting the Act. So far as the principles of the Bill are concerned, they are acceptable. The whole thing depends on how they are worked.

The Honourable Shri N. V. Gadgil: I have nothing to say.

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

CINEMATOGRAPH (SECOND AMENDMENT) BILL

The Honourable Shri R. R. Diwakar (Minister of State for Information and Broadcasting): Sir, I beg to move:

"That the Bill further to amend the Cinematograph Act, 1918, be taken into consideration."

The main object of the amendment proposed in this Bill further to amend the Cinematograph Act of 1918 is to bring the censorship of films under a single authority. According to the Act as it stands at present, the authority to censor vests in each Provincial Government. Under the Act, no film which is not certified by a constituted authority, can be exhibited in any licensed place. All the Provinces have not set up Boards. At present they are functioning in only five places, Bombay, Madras, Calcutta, Nagpur and Simla. A certificate issued by any one of the Boards is valid throughout the territory which was hitherto called British India, i.e., Union territory. So the territory in the States was excluded under the present Act. But at the same time Provincial Governments have power to uncertify any film within

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their respective jurisdiction on any grounds. The result has been that several independent Boards have been functioning, each deriving authority from its respective Government and it has not been possible to evolve any uniform policy.

Similarly, each certifying authority and all District Magistrates have powers to suspend the certificates of films in their area and each Provincial Government has unrestricted power to declare films to be uncertified films. As a result, films certified by one Board are often uncertified in other provinces on grounds which reflect nothing more than a difference of opinion about the suitability of the film for public exhibition. Examples of such films are "Loves of Carmen" which was certified by the West Bengal Board of Film Censors but has been uncertified in Bombay, East Punjab, U. P. and Assam; "Kidki" which was passed in Bombay and uncertified in Orissa and Madras; "Lucky Stiff" which was passed by West Bengal but uncertified in Madras and U. P.; "Matlabi" which was passed in Bombay but uncertified in U.P., Madras and West Bengal and "Ram Ban" was passed in Bombay but uncertified in Madras. Sometimes, films passed in a province are subsequently uncertified in the same province, reflecting merely a revision of the opinion of the Board or Provincial Government about a film. Examples of these are "Postman Always Rings Twice", "Nek Parvin" and "Jugnu" which underwent two suspensions and two revisions. Moreover, when copies of the same film are submitted to two different Boards, portions objected to by one are sometimes passed by another. A prominent example of this was Hamlet which was passed without cuts by the West Bengal Board but certain portions of it were objected to by the Bombay Board. In the case of Adventures of Don Juan, the Bombay Board found no objection, while the West Bengal Board considered certain portions objectionable. Further, under the present system, there is nothing to prevent a film which has been rejected by one Board from being submitted to another and passed by it. This is what happened in the case of the film "Lucky Stiff" which was rejected by the Bombay Board but was passed by the West Bengal Board and it has happened in the case of the film "1942", which the West Bengal Board refused to certify but has been passed in Bombay. Such differences of opinion among the certifying authorities, which are there for no fault of the Censor Boards, but are inherent in the system that is prevalent today and are contrary to public interest as they create an impression that censorship is capricious. As a result, censorship fails to command the respect it ought to command and to exercise any influence in raising the standard of films as a medium of education and healthy entertainment. The Government of India have come to the conclusion that a radical change is necessary in the system of censorship if these anomalies are to be removed and uniformity is to be achieved. The Bill under consideration will enable this change to be made by replacing the existing Provincial Boards of Film Censors by a single Authority appointed by the Central Government.

The film in modern days is a powerful medium not only of entertainment but also of information and education. But if the fullest possibilities of this medium are to be explored and utilised, it is necessary to raise the standard of films as also to have a uniform policy throughout the land so that producers may be able to know what is expected of them in the new set-up. The co-operation of the producers and others in this great industry is necessary in this matter if the film is to help us in the noble task of nation-building and of educating the vast democracy of India. Uniformity in general standards of production as well as in censorship throughout India will remove the present anomalies and vagaries indicated above and will help planning of production on an all-India scale without apprehensions of being disallowed in some parts of India and allowed only in some others.

There are no doubt differences in language and also other regional differences. I am fully conscious of that fact. India is a land of variety and it is this variety that gives it also the richness that is so obvious in its arts and crafts and in the various aspects and activities of life. But the redeeming feature, and that which makes us feel as one, is the underlying unity which is basic and vital in Indian culture. Whatever the political and administrative vicissitudes that India has passed through, her cultural unity from Kashmir to Cape Comorin has persisted through the ages. All this diversity can well be accommodated in any scheme of censorship that would come into existence under this amended Act and at the same time a central unity can be maintained.

I may now trace the history of this Bill which is very interesting. As far back as 1927-28, this question came up before the Indian Cinematograph Committee that was set up by the Central Government. That Committee among other things recommended the establishment of Central Censorship. The then Government, however, did not pursue the matter as they lost all interest since the enquiry took a turn which they had not anticipated.

Later when there were lots of complaints in newspapers about the anomalies arising out of different Censor Boards in different provinces, and also complaints from producers as to how those anomalies came in the way of more and better production, the question was taken up by the Central Government. The Industry as well as the Provincial Governments were consulted. The Industry through their associations and most of the Provincial Governments agreed to the principle of Central Censorship. One of them, however, suggested a variation by saying that the Central Board should only lay down the principles and the Provincial Boards should function as before to carry out the principle. Another suggested that the Central Board should be situated in a particular place and so on. When the Government saw that there was a general consensus of opinion in favour of some kind of Central Censorship, this Ministry consulted the Standing Advisory Committee of the Legislature which agreed to the proposal. But since legally speaking, though the subject is in the Concurrent List, without an Amendment of the Government of India Act, 1935, the Central Government had no executive authority in the provinces on this subject, and therefore an amendment was moved and passed in January 1949 to that effect. It is according to powers taken for the Central Government under that amendment that this Bill is being moved.

Later, however, the censorship of cinematographs, which is in the Concurrent List, has been made a Central subject and included as Item 60 in Schedule Seven, Union List. Therefore, this item will be entirely within the purview of the Constituent Assembly from 26th of January 1950, when the new Constitution Act of India is proposed to be promulgated. If we pass this Bill now in this session it may be possible to set up the machinery for Central Censorship in due course when the new Constitution would have begun functioning.

Now, as regards the provisions of the Bill—

- (i) This Bill extends the Cinematograph Act to States and States Unions.
- (ii) It confers power on the Central Government to constitute a Central Authority for certifying and examining films for public exhibition.
- (iii) It confers power on the Central Government to make rules regarding the manner in which the authority shall be constituted, the procedure for examining and certifying films and the fees to be levied for censorship.
- (iv) It provides for appeal from the decisions of the Authority to the Central Government.

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- (v) It confers power on the Central Government to uncertify a film and convert 'U' certificates into 'A' certificates.
- (vi) It confers power on the District Magistrate and the Provincial Governments and States to suspend the exhibition of certified films if in their opinion the films are likely to lead to a breach of the peace. This suspension can be in force only up to a period of two months. If extension of the period of suspension is required, a reference will have to be made to the Central Government.
- (vii) It confers powers on the Provincial Governments to make rules regulating cinematograph exhibition from the point of view of public safety.
- (viii) It authorises the Central Government to issue directions for the exhibition in theatres of—
 - (a) scientific and educational films,
 - (b) documentaries and news reels, and
 - (c) an adequate proportion of indigenous films.

The main effect of the Bill will be to replace the existing Provincial Boards of Film Censors by a Central Authority. The details of the Central Authority have been left to the Central Government. Government will see that the Authority is so organised as to be able to deal with films in all languages and all regions of production and is competent to safeguard the public interest without any harassment to the producers. In view of this and in view of the interest of the film industry in this matter, it will be necessary to examine in detail the Authority to be set up.

In the context of centralisation, retention by Provincial Governments of powers of uncertification will be unsuitable as it will defeat the very objects of centralisation. But as law and order is a Provincial responsibility, Provincial Governments have been given the power to suspend the exhibition of films which they think are likely to cause a breach of peace. The period of suspension has been limited only to two months because local disturbances or tension of the nature contemplated will be but a passing phase. Exceptional cases will be covered by the procedure for reference to the Central Government.

The provision relating to directions for the exhibition of documentary films and news reels etc., is intended to ensure the existing arrangement for the exhibition of "approved films" by cinemas which has been secured by the addition of a condition in the licences. "Indigenous films" have also been included in this provision so that the Central Government may have powers to counter any unfair competition from foreign films which the Indian film industry may have to face. Signs of such competition are visible in recent instances of foreign films dubbed in Indian languages and circulated to Indian language cinemas which hitherto constituted an exclusive market for Indian films. The last Indian Cinematograph Committee (1927-28) had recommended certain measures of protection and the Committee now sitting may recommend similar measures. The provisions proposed in the Bill will therefore be useful.

The Cinema Industry has been fast growing not only in volume but also in interest and importance. A fresh Film Enquiry Committee has been recently set up which is going thoroughly into all the aspects of that industry. I hope it will soon come out with its report when, if necessary, some fresh legislation may have to be taken in hand. But since this reform has long been pending it was thought necessary to put it through at the earliest. I hope the House will cooperate with me in putting these provisions in the Bill on the Statute Book. I have placed before you, Sir, the Bill, its objects, its history in brief, and the main provisions. I hope it will commend itself to the House and after consideration it will be passed. With these words I commend the Bill to the House.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Cinematograph Act, 1918, be taken into consideration."

Shri M. Tirumala Rao (Madras: General): Sir, this Bill is very limited in its scope, but it raises very important issues. The hon. Minister in charge of Information and Broadcasting, and in a broader sense including cinema and film production, should have taken a more comprehensive view of the matter instead of bringing in piecemeal legislation before this House. He brought forward one Bill in the last session whereby the exhibition of films which are not desirable for juveniles should be prohibited. Power was taken under that Bill for Government to prohibit such films as would be undesirable for exhibition to juveniles and adults. After that, the hon. Minister appointed a Committee to go into this whole business of film production and I feel that he should have awaited the report of that Committee before he brought forward any Bill before this House. That Committee when it was appointed by the Government of India, were criticised as not being fully representative of all the interests concerned, because only the interests that were vitally affected in Bengal and Bombay got representation on it and Madras was denied proper representation. Now, Sir, Government are asking for comprehensive power for appointing a Central Censorship Authority for the whole country. With a variety of manners and customs and with different standards of judgment of good and bad, in the country, the Government have a great responsibility, and therefore my hon. friend should have awaited the report of that Committee before he came here with this Bill. Sir, in this country now there are about seven Censorship Boards in the provinces. The hon. Minister and many of my colleagues know how they are constituted and how they are working. These Censorship Boards are fields of patronage for provincial governments, where some people who claim professional as well as amateur experience and expertness in this matter, somehow manage to get in. These Censorship Boards are always surrounded by film producers.

Dr. P. S. Deshmukh (C. P. and Berar: General): By whom are the film producers surrounded?

Shri M. Tirumala Rao: By film artists, both men and women.

Shri Suresh Chandra Majumdar (West Bengal: General): That is not the case in Bengal.

Shri M. Tirumala Rao: Sir, in our country we have about sixty studios in operation and about 250 film companies with about ten crores of rupees as capital. Once a film is produced, those interests, not only the producers but the men behind the producers, the men who have put money into the picture, somehow manage to get the films censored or accepted by the Censors. What is the ideal before these producers? The only thing that counts is the box office. And what is the inducement, what is the influence that swells the box office? Vulgar exhibition of the sex appeal, half-concealed and half-revealed postures and poses, which will not generally appeal to decency. That is the one thing which is being propagated by these Indian films and also some foreign films. And it is no wonder that juvenile crimes are on the increase. The crimes are generally picked up from the films.

Dr. P. S. Deshmukh: Specially American films.

Shri M. Tirumala Rao: The theme of these films is either sex or crime or shooting one another, or some blood-curdling or hair-raising situations, with the sole purpose of attracting money. Therefore what I say is this: The responsibility of the Central Government is very great. We have not given here any standard by which the Central Film Censorship Board can be guided in the

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censorship of films. And then, you have not taken the House into your confidence on the sort of people you are going to put on this Board. If it is only a question of mere patronage to some friends or people who claim to have—the so-called sinister word—influence with the Government of India, then 4 P. M. I do not think any good results will follow from this Bill. The Minister must tell us what are his ideas in regard to the qualifications of the members, and what are the standards by which the Boards will be guided.

India is a land of several languages. Films are produced in Hindustani, Tamil, Bengalee, Telugu, Marathi, Kanarese and even in Malayalam, the latest in the field. There are about seven or eight languages in which films are produced and the number of the expert committee at the Centre should not be unwieldy. Two or three members for each area would mean 25 or more and if all of them were to exercise their judgment on all the films it will be an unwieldy concern.

It is not enough if the Central Board is simply a censoring board. I want the Government to assume responsibility for the management of this industry. Apart from newspapers and the radio the film is an effective medium of propaganda and education for the vast illiterate population of this country. You must be literate to understand newspapers, to understand the radio you require a certain standard of education but the film appeals to the emotions and the native commonsense of the people and therefore a greater responsibility devolves on the shoulders of the Government in seeing to it that the right type of films are produced.

We have seen recently one film under distinguished patronage. The members of the Assembly were carried in cars to see it. The name of the film is "Bapu ne kaha tha" which was produced by a wealthy financier of Calcutta. He wanted to exploit the name of Gandhiji but there was nothing connected with Gandhiji in the film. We felt blasphemous that this capitalist should have exploited the sacred name of Gandhiji to reap a little financial benefit.

Another film to which we were dragged was called "Maharaja Asoka". The film had nothing to do with Asoka. The story was distorted, the photography was clumsy and everyone of us had to regret our visit.

My friend referred to the film "Kidki". In that film they have put in on both sides of a road a girls' and a boys' hostel. The young girls in the windows on one side are beckoning signs and singing lascivious songs and the boys on the other side reply with equally lascivious songs. This film was passed by the Censor board. I wonder what sort of people compose the censor boards who pass such films for exhibition.....

Mr. Deputy-Speaker: Some of them must be students!

Shri M. Tirumala Rao: In another film a young man dresses like an old man, pretending to be the father of a girl and enters a girls' hostel. That is the way things are taught to our young men and women to circumvent codes of morality and dignity.....

Dr. P. S. Deshmukh: These devices are being taught when we have lost our youth!

Shri M. Tirumala Rao: There is also a picture where a man enters a girls' hostel in the garb of a woman. Therefore all the possibilities are not exhausted for my hon. friend.

There is an immense field for educational films or for the development of real acting. In the history of the British film industry, Government, public opinion, universities and educated men and women have devoted part of their time

to evolve a healthy public opinion with regard to film production. The character acting by Paul Muni or George Arliss is well known. Even the lives of their great men they have brought into their films. There is the story of Parnell whose infatuation for Mrs. Oshea was responsible for the destruction of his leadership in Ireland. That was finely portrayed in the picture by that name. Then there is the picture portraying the utopian love of Nelson for Lady Hamilton.....

Shri H. V. Kamath (C. P. and Berar: General): Why Utopian?

Shri M. Tirumala Rao: I give it that interpretation. The lives of Queen Elizabeth, Queen Victoria are portrayed in films. The lives of national heroes are a real education to the people. We have also some films like Harish Chandra and Rama Rajya. But the actors who assume the role of the characters must be men of public esteem. In England all their big actors are honoured. In the community they have a social status. Once they attain a certain status in the country their merit should be recognised. The stigma that attaches to film-acting should be removed. For that the Government should organise a proper system of patronage and recognise merit so that decent people will be encouraged to come into the field.

With regard to educational films Government are producing some, but that is not enough. It is due to you, Sir, that the Films Division of the Government of India was abolished in 1946. Soon after when the popular government came into existence they realised that this potent instrument in the hands of a popular government should not be done away with. They have revived it but we have to revive it on a more comprehensive and more efficient scale. It is still in its beginning. I hope the Minister will develop the Films Division so that it may become a model for private industry. He should see that not only our industries are depicted but our culture is also properly resuscitated. In Telugu there are some films like Thyagaraja, Poltiam, and other *bhakthas* who have left their indelible mark on the culture of the people. Not only the lives of ancient historical personages and *bhakthas* but also the lives of the makers of modern India should be recorded in films and handed down to posterity.

The proposed Section 9 (3) says: "The Provincial Government may make rules to provide for the regulation of cinematograph exhibitions for securing the public safety." The hon. Minister has not given an explanation as to what he means by public safety.

The Honourable Shri R. E. Diwakar: Fire and other things.

Shri M. Tirumala Rao: I was thinking whether it meant combating anti-social movements, like the Communist menace, dacoities, burglaries, teaching people road safety.....

The Honourable Shri R. E. Diwakar: These are the usual words used.

Shri M. Tirumala Rao: Public safety may mean anything and it should be made clear if films are to be used for propaganda of certain varieties, such as safety first campaign in road traffic. The meaning of the words 'public safety' should be explained.

Power is given to district magistrates to suspend a film for some time.

The Honourable Shri R. E. Diwakar: Only for breach of peace.

Shri M. Tirumala Rao: The provincial governments can suspend the licence of a film for a couple of months. Once a film is censored there must be a proper authority, equally, if not more competent, to review the decisions of the licensing authority, if there is any flagrant injustice.

With these words, Sir, I support the motion.

Begum Aizaz Rasul (U.P.: Muslim): Sir, I welcome this measure inasmuch as it seeks to centralise the censorship of films. As the hon. Minister has told us and as we are aware, there are certain Censor Boards in a few Provinces in existence today. But in other Provinces there are Cinema Advisory Committees which have been appointed by the Provincial Governments to advise them on any film that is being shown to which objection may be taken by the public. I happen to be a member of the Film Advisory Committee in the United Provinces. The functions of that Committee are very limited. If objection is taken to a film or part of a film, which is being shown in any part of the Province, then the District Magistrate of that district has to report to Government that this film is objected to on certain grounds and then only does the Provincial Government call a meeting of the Advisory Committee. I have always felt that such a Committee cannot rightly serve the purpose it is appointed for because the mischief done by that film or part of that film that is objected to has already to a great extent been done. By the time the report is made to the Provincial Government and a meeting of the Advisory Committee is called to give its opinion on the film, the film has already been shown in many parts of the Province and the harm has to a great extent been effected. Therefore, as I said in the beginning, inasmuch as this Bill seeks to centralise the censorship of films, I welcome it.

But, the hon. Minister has not made it clear as to how this Central Censorship Board as well as the Boards that are intended to be appointed in the Provinces are going to be appointed and who will be put on them. That is the main question, because, as has been very rightly pointed out, if these Boards do not contain members of independent views then the appointment of such Boards will really not mean much. I hope that the hon. Minister will pay attention to this side of the question.

It is well-known that the film industry in India is one of the very few indigenous industries of the country that is fortunately flourishing and has shown good results. We do not want to gag that industry in any way. I wish to impress upon the hon. Minister that it should be kept in mind that the industry should be given every scope for expansion, and all help should be extended to it in keeping with high standards of morality and efficiency so that it may not happen that by the institution of such a Board this industry suffers in any way.

We all realise that the cinema in the modern world is one of the main channels of propaganda which in a vast country like India can be utilised to very advantageous purposes by showing to the public films of educative and cultural values. We all know by the box office returns of the Indian pictures and the number of people who go to see them how popular they are. Therefore there is no reason why these films should not be developed on lines which while not taking away from the popularity of those films will at the same time give the people a lesson in the highest standards of culture and education. There is no doubt that today, there are very few avenues of recreation for our people, and especially for the lower classes the cinema is the only form of recreation to which they can resort after working hard all day long. Therefore to some extent some laxity will have to be allowed in these films as regards songs and the lighter side of things. But, as my hon. friend Mr. Tirumala Rao very rightly pointed out, some standards should be maintained, particularly a certain standard of morality and education, and the films should give our people a right idea as to their behaviour and manners. These should always be considered as a necessary part of the objectives we have in view as regards our films. I do not agree that all films should be educative films. There are different types of films, and they cater to the tastes of different people. But there is no doubt that the music that is exhibited in our films today is the most popular form of

music now. I have heard this not only from individuals but I know it also as a member of the All India Radio Advisory Committee. It was reported to us that when the All India Radio office sent out questionnaires about the type of music that the public wanted on the radio and which they liked most, more than 75 per cent. of the replies received advocated the music and the songs that are being exhibited today in the Indian films. There is no doubt that they are very popular, and if a certain standard of morality and efficiency is kept up I do not see any reason why they should be discouraged.

There is another question to which I would like to refer in this connection and that is about the language.

[At this stage Mr. Deputy-Speaker vacated the Chair, which was then occupied by Shrimati G. Durgabai (one of the Panel of Chairmen).]

The popularity of these films today shows that the language which is being used in the films—I am referring to the Hindustani language—is extremely popular. There has not been a single complaint as regards that language. I sometimes go to see these films and I do realise that that language is one that appeals to the masses, is most popular, and that is most understandable. I therefore hope that the hon. Minister will keep this in view, namely, that the standard of the Hindustani language that is being used today in the Indian films is kept up, because, as I said, the very popularity of these films shows that that language is the most acceptable to the masses who go to see them.

There is no doubt, madam, that up till now a very different type of people was attracted to the film industry. That I suppose was to a great extent the reason for the low standard of films that have been objected to. I really feel that some of the Indian films ought to be banned from being exhibited because they are so much below the standards and are not worth being shown to any one in this country, especially children. But I am glad to say that a better class of people is being attracted to the cinema industry and I have no doubt that on account of that the standard of this industry will certainly go up to a great extent and the industry will improve day by day.

I don't think I have anything more to say except that, as has just been mentioned by the previous speaker, the cinema is certainly a means of propaganda by which we should do everything to educate our masses along the right lines. Some reference was made to the subject of love scenes exhibited in Indian and European films. I do agree that the love scenes shown in our Indian pictures are most absurd. They don't tally with the social conditions of our country. I may say openly that I hardly ever allow my children to go and see an Indian picture and would much rather allow them to go and see an English or an American picture because this sort of thing has a great effect upon the child's mind. If a child sees a love scene being enacted in an English picture, he also realises that it does not concern his country, that the social conditions depicted are not those prevailing in his own country but those of an alien country, and therefore the effect on the child's mind is not so great as it would be if he sees this sort of thing being shown about his own country. I would not object to it if these conditions prevailed in our country but because these are so different from the real conditions of Indian society, and a film should be a mirror of the social manners and customs of the country it is made in. Therefore, from this point of view also, I do expect and hope that the standard of our films will go up so that our children can see them without any danger of bad or injurious results upon their morals or upon their mental make-up or upon their psychology. All these points have to be kept in mind when the Board of Censors sees these films and censors them.

[Begam Aizaz Rasul]

Of course, it would have been better if this Bill had been brought forward when the Film Enquiry Committee appointed by Government had submitted its report, but anyhow I don't think there is any harm in having brought forward this Bill now because that Committee may take some time to report and in the meantime if Government brings in interim legislation on this very important subject, I welcome it. It is high time that this sort of a thing is legislated for. I only hope that the personnel of these Committees in the Centre as well as in the Provinces will be such as will not be dominated by the industry and that public opinion and non-official members will be associated with these Committees to advise the authorities on the right lines.

Shri V. I. Munishwamy Pillay (Madras: General): Madam, I feel proud to address this House when you are in the Chair. At the outset let me inform this House that the film industry has greatly improved in this country. As regards the present Bill all that we have to see is whether the objects and reasons set out in the Bill will help to give a greater impetus for the industry.

My hon. friend Mr. Tirumala Rao observed that members of the Film Board are surrounded by film producers and more so by film stars.

Shri M. Tirumala Rao: No, no. That was the interpolation by my friend Dr. P. S. Deshmukh.

Shri V. I. Munishwamy Pillay: I did not know that, but as a member of the Film Board for many years in the Madras Province, I may say it was not the case at all. It depends upon the members who take up that job.

Coming to the very provisions of the Bill, the vital question is whether by centralising it will be helpful in the improvement of the industry. As my hon. friend Mr. Tirumala Rao told the House, we have to view the language question, seriously. As he pointed out, unless we have a Central Board of nearly twenty or twenty-five members, drawing two or three members from each linguistic province, I do not think the work of the Central Board will be done so efficiently and quickly.

As explained by the hon. mover, there have been difficulties in a film being certified by a certain Province but not being accepted by the other Provinces I know there is that difficulty. Take for instance the Madras Province where there is total prohibition. I have known certain films certified in Bombay which were exhibited in Madras and which contained scenes showing the advantages of drink. Naturally, after the exhibition of that film the Film Board and the Government have to take serious notice and do whatever is necessary to stop the exhibition of such films. In such cases, I think what the hon. mover stated is correct. But as it is, will it be possible to do so at present? Unless we come to have a common language, the question is whether a Censor Board in the Centre will be able to meet the demands of each Province.

There is another difficulty also as pointed out by my hon. friend Mr. Tirumala Rao. When a certain film is exhibited in a district, if some people out of jealousy were to tell the Magistrate that there will be a breach of peace, he may suspend its exhibition. But what about the party concerned who procured that film? If the Magistrate suspends its exhibition for two or three months, the man who was responsible for getting the film will be a great loser. So, there is some defect in this Bill but I hope that as time goes on the hon. mover will see his way to improve all these things.

Madam, I feel that this Bill is necessary but not in all respects.

Shri O. V. Alagesan (Madras: General): Madam, the object of this Bill as the hon. mover told us is the centralisation of censorship. This question was gone into at great length by the Rangachari Committee that was appointed some

two decades ago. It was they who reported that there will be greater advantage to the film industry if there is a central board of censorship exercising censorship instead of having various provincial censor boards. The hon. the mover also referred to the opinion of the Committee in his opening speech. The Committee was of the opinion that the Central Board would not be able to cope up with the work of censorship for the whole of India. They recommended that there should be provincial Boards also and they should have the power to certify the films and that certificate should be valid throughout India. They made this recommendation at a time when the cinema industry was not in such an advanced state as it is now and also when the cinema habit had not spread among the people as is the case now. If even at that time they felt the necessity of making such a recommendation, then it goes without saying that to dispense with Provincial Boards at the present time will not be conducive either to the industry which Government wants to flourish or to the public to whose interest it will not be doing justice. My hon. friend Mr. Tirumala Rao pointed to the language and other difficulties. More than that, it will not be possible for one Central Board at Delhi to handle the entire volume of work. In this connection, I would like to read a few sentences from the report of the Committee. Although it is more than two decades old, it holds good even today, because the recommendation that they made then is sought to be given effect to only now in the form of this Bill.

They said:

"It is obvious that a Central Authority so constituted would not be able to do the censorship for the whole of India and Burma.....

Burma was then part of India—

...without causing delay and inconvenience to the distant importers and producers etc, etc."

They again opined:

"There should be Provincial Boards where necessary for the censoring of locally produced feature films and where no Central or Provincial Board exists, power should be given to the Presidency or District Magistrate to certify topical films."

This they recommended as a *via media* for the then existing state of affairs. That position continues even now. About the advantages that would accrue they said:

"We venture to believe that the scheme—

that is, the scheme that I gave in brief just now—

...given above will meet all reasonable objections against a Centralised censorship and also meet the criticisms of the existing censorship..... It will achieve uniformity of standard, while preserving elasticity and safeguarding provincial and local rights."

So, Madam, I should like to appeal to the Minister to have this compromise and have Provincial Boards also. It would not be enough to delegate powers as is done in proposed section 9. That will not satisfy the needs of the various localities and provinces. I would urge upon the Minister to accept suitable amendments providing for the existence of Provincial Boards also side by side with the Central Authority.

Even the other day, an hon. Member of this House, who is also a member of the Standing Committee of the Ministry concerned, told me that there is no idea to do away with Provincial Boards. But to my surprise I heard the hon. Minister just now saying that the Central Authority is going to replace the present Provincial Film Censor Boards. I do not think it will be a proper procedure. It would be rather belittling the work of the various Provincial Film

[Shri O. V. Alagesan]

Censor Boards, of which I find now that some hon. Members of this House are also members. They have been doing good work. But for the half a dozen instances where a film certified by one Board was not certified by the other the whole thing has been working smoothly. Instead of one extreme, it would not be good to go to the other extreme. It would be better to strike a *via media*. The Central Authority can lay down uniform standards and issue instructions as to censorship and exercise effective control over Provincial Boards. Nobody objects to that. But to entrust the whole work of censorship for the entire country to a Central Authority would not be advisable.

The next important object of this Bill after centralisation of censorship is contained in proposed sub-section (2A) of section 5. The new provision that is sought to be made here is a welcome one. Central Government may issue directions from time to time to licences to exhibit films in India for educational purposes; films dealing with news and current events; documentary films, and others. I should like to take this opportunity of telling the hon. Minister that the Films Division of the Government of India should be made to work more effectively. The previous speaker hon. Shri Tirumala Rao also emphasised this point. It is no use putting in a provision, if it is only to remain a dead letter. They should produce educational films for mass adult education purposes on subjects like agricultural operations, public health, social hygiene and so on. They should then distribute these films to the various exhibitors and ask them to exhibit them. These producers may not be anxious, out of philanthropy, to make these films themselves and exhibit them along with their own other films. This provision should be made full use of and the Central Government should take upon itself the responsibility of not only producing these important educational films, but they may even import useful foreign films on various subjects and distribute them. Films of places of archaeological interests like Ajanta, Ellora caves, the Madura Temple and Mahabalipuram sculptures, etc. should be taken and exhibited all over the country. If this is done, it will foster the cultural unity of the country. It will incidentally help people who will not be able to travel to these distant places to derive the benefit of seeing them in a film.

Madam, I need not speak at length on the question of adult education. Only the other day the Education Minister was bemoaning his inability to put forth all his adult education schemes into effect owing to financial stringency. What the hon. Minister for Education now finds it impossible to do can very well be done at a lesser cost, if I may put it like that, by the Minister for information and Broadcasting.

There is another matter, Madam, to which I should like to draw the attention of the House and that is the very vexed question of restrictions on film footage. Hon. Members might have noticed the acute controversy that is going on in the press on the question of restriction of film footage.

[At this stage Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) resumed the Chair.]

While it may not be altogether undesirable to restrict footage, I should at the same time point out that too much meddling in matters like this may not be quite advisable. After all we are not regulating the hours of work in a mine or in a factory. If a film is long and if it is also bad people certainly will not patronise it because of its length. If, on the other hand, there is a short film and yet a good one, that is bound to be patronised by the people. Time and taste will have their play and matters will adjust themselves. Moreover, the public have become sufficiently critical of these films nowadays, with the result that they will be able to distinguish between a good film and a bad

film and patronise only good ones. The question of film footage can, therefore, be very well left to the industry and there need not be restriction imposed by the Centre or by the authority that is intended to be constituted.

Sir, proposed section 7 gives power to Provincial Governments to suspend the certificate for a limited purpose stated in the section. It is good that such power is given. It was there in the previous Act.

The proposed section 11 gives power to exempt certain films from being censored. I think this is intended to cover cases of educational films and other propaganda films. These films should be made more attractive and the news-reels of the Films Division that are at present shown in the cinema houses of Delhi do not very favourably compare with the foreign news-reels. I am mentioning this because I find there is an amendment that this section may be omitted as it is not necessary.

Again, Sir, my hon. friend Mr. Tirumala Rao was explaining the objectionable nature of the obscene films. Of course the Censor Board is there to take care of this matter. But there is one other matter which even the Censor Board, at present, is not empowered to do and that is the banning of obscene posters. They cannot be submitted for prior censorship.

Shri C. Subramaniam (Madras: General): But the police can take action under the I. P. C.

Shri O. V. Alagesan: But without recourse to the Penal Code the magistrate or the police should be empowered to order removal of such posters from being exhibited. If it is possible, this may be provided in the rules.

I would once again request the hon. Minister to see that he does not by one stroke of the pen do away with the Provincial Boards, but retain them and utilise their services as at present.

Mr. Deputy-Speaker: Shrimati Durgabai.

Shri Krishna Chandra Sharma (U. P. General): Sir, may I know what is the criterion for catching your eye, because I have been trying to catch your eye so many times?

Mr. Deputy-Speaker: I would like to inform the hon. Member that when I was about to leave the Chamber I had his name in mind and asked Shrimati Durgabai to call him, but when his turn came the hon. Member was not in his seat. I am trying to see that everybody catches my eye and there is no discrimination. Moreover the hon. Member is a Member of the Standing Committee and I would like Members of the Standing Committee to give us the benefit or their information of the Departments. The debate is likely to proceed till Monday and the hon. Member is bound to have his chance on that day.

Shrimati G. Durgabai (Madras: General): I will have my chance next time.

Mr. Deputy-Speaker: Once the member's name is called and she does not wish to speak she foregoes her chance.

Shrimati G. Durgabai: Sir, while giving my support to this Bill I wish to make a few observations on this particular matter. Sir, hon. Members are aware that the object of this Bill is to centralise censorship of films. Now the present practice is that there are Provincial Boards working in the provinces deriving their authority from their respective Governments. This practice is sought to be put an end to by this Bill. I do not want to take much of the time of the House, Sir, in giving a detailed picture of the varied objects of this

[Shri O. V. Alagesan]

legislation because the hon. Minister who has brought the motion has already explained to the House the immediate object of this Bill. The position as we have understood it is that there is no uniform policy today with regard to the censorship of films. He has told us also how on account of this uniform policy being absent, how certain films certified in one province and exhibited in one province are rejected in the other province and are not allowed to be exhibited. That is the practice today and this is causing great confusion and also hardships to the producers. The producer today is not certain whether it is going to be accepted in his province or it is going to be rejected in the other province. Therefore certain anomalies have come to the notice of the Government and so they thought it advisable to centralize this particular function, namely censorship of the films. Sir, today it is very important that we should give a little thought over this matter, because we regard today radio, film and the press as very important factors and they make very important contributions to the side of propaganda and also in moulding public opinion. They also have got a vital role to play in educating the public and today under our Constitution there is an important task. Every adult is given franchise and if only we aim at having good Government, we have got to take note of the fact that we must have also efficient Government and for that we have to educate our masses. This country being a very big country, we cannot reach every adult who has to play some amount of influence and part in shaping the destinies of this country. Therefore, it is only through this film and the radio we have got to reach him. That is the necessity, to raise the standards of these films and introduce a uniform standard in the films that are coming today. The objects of the censorship are two-fold. One is to prevent unsuitable films from coming before us and secondly to raise the standard of films. These are the two important functions expected of this censorship Board. Today, Sir, we are aware that censorship is a post-mortem thing. It begins only after the picture is taken. So much raw-film is wasted; so much time is wasted. We know how today these film staff are being paid and what salaries. In certain cases they amount to lakhs of rupees and after they have done their work the film comes for censorship and that has a post-mortem effect. We have got to prevent that. How are we to prevent it? A question may be asked "How are you going to censor a film before it is taken?" My answer to this is that if only there is a Central Board for this purpose, that Central Board after having taken into consideration all aspects of our national, political and cultural life of this country, of the past and the present traditions of this country, could lay down certain uniform standards and they could also study thoroughly the problems agitating them and which require to be solved. There should be some rules for guidance even before a film is taken for it may be a social film or a cultural film. There will be some amount of guidance that is necessary and it is highly necessary because so much money is wasted and that could be saved in this way.

Sir, we have heard criticisms that come from all quarters that it is an attempt to make inroads into Provincial autonomy and what the provinces today are exercising through their censorship boards, the Centre is trying to take away that power and there is also another criticism that the Board is going to be situated here and that it is not aware of the peculiarities of the provinces and that it is going to completely shut the cultural aspirations of the various units of this country. Provinces have got different cultures. They have got their own ambitions. It is a fact and there is some justification for that kind of doubt being raised because today these films are taken in the provincial languages. How can this one Board sitting either at Delhi or Bombay or Calcutta scrutinise all these things and the films that are taken in the provincial languages? How is it to understand the languages? Therefore it is not possible. There will be a lot of delay; there will be confusion and there will be inefficiency.

[Shrimati G. Durgabai]

All these criticisms we have heard. It is really true that while taking the responsibility, the Centre is taking really too great a responsibility. It will be a difficult task to try to examine all these films in vernaculars. But I only how and I can assure, not only as a member of the Standing Committee attached to this Ministry and also as coming from the Ministry, that these Boards, whether it is one board or two, they are going to be fully representative of the provincial languages also and that people will be drawn from local areas to represent on this Committee. But even there care should be exercised that there will be particular diligence and they should see that not only that members who serve on this committee as members know the language of a particular locality but also that they are quite conversant with the technique and also with the particular needs of that particular locality and also the cultural aspirations of the country. It is only such people who will be useful. It is not enough for a member to know the language. It is not sufficient for a member to go constantly to pictures. A frequent cinema-goer need not know and certainly, he does not know the aspects of cinema or the cinema industry. There is no good of such members coming to serve on these committees but there is certainly a need for examining before the members are being taken on this Committee.

Shri C. Subramaniam: Is it necessary that they should know about the technical side of the film also?

Shrimati G. Durgabai: There is no harm even for that person knowing about the technique also. That will be quite helpful. Therefore, I would like to impress upon the members that there is no such great danger and one need not apprehend that the provincial languages are going to get a set-back on this matter.

Shri A. Thanu Pillai (United State of Travancore and Cochin): May I ask the hon. Member what approximately would be the strength of that Committee?

Mr. Deputy-Speaker: The hon. Minister in his reply will answer all questions put to him. The hon. Member may go on.

Shrimati G. Durgabai: My time is up and I will only say this. Practically the scope of this Bill is very limited. We have already passed a Bill and that is with regard to the sanction of the exhibition of pictures suitable for adults and children. The limited scope of this Bill is only to constitute a Central authority in order to guide the exhibition of suitable films coming before the country. Sir, I would only urge that the hon. Members need not be apprehensive of this measure and care will be taken to see that their fears are not really justified and my hon. friend Begum Aizaz Rasul, I hope, will not have any opportunity hereafter to say that she would only send her children either to an English film or an American film in preference to an Indian film, because the films that will be coming before the Indian public will be very good and the standard also will be raised. Another hon. friend Mr. Tirumala Rao, has also made many points. He has given a detailed catalogue of all the pictures that have been exhibited in this country, their merits and demerits. They only justify that a uniform standard has got to be laid down and that function could only be discharged by the Centre and not by the Provinces. With these few words, I leave the other matters to be answered by the hon. Minister.

Mr. Deputy-Speaker: It is five o'clock now. The House will stand adjourned to 10.45 A.M. on Monday.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Monday, the 12th December 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Monday, 12th December, 1949

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11.45 A.M.

PAPERS LAID ON THE TABLE

REPORT OF RAILWAY CONVENTION COMMITTEE, 1949

The Honourable Shri N. Gopalaswami Ayyangar (Minister of Transport and Railways): Sir, I lay on the Table the Report of the Railway Convention Committee, 1949. [Copy placed in the Library. See No. IV U (a) (77)].

CENTRAL RESERVE POLICE FORCE 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 provide for the constitution and regulation of an Armed Central Reserve Police Force.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the constitution and regulation of an Armed Central Reserve Police Force."

The motion was adopted.

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

PROFESSIONS TAX LIMITATION (AMENDMENT AND VALIDATION) BILL

The Honourable Shri Satyanarayan Sinha (Minister of State for Parliamentary Affairs): Sir, I beg to move for leave to introduce a Bill further to amend the Professions Tax Limitation Act, 1941, and to validate the imposition in the United Provinces of certain taxes on circumstances and property.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Professions Tax Limitation Act, 1941, and to validate the imposition in the United Provinces of certain taxes on circumstances and property."

The motion was adopted.

The Honourable Shri Satyanarayan Sinha: Sir, I introduce the Bill.

DELHI ROAD TRANSPORT AUTHORITY BILL

PRESENTATION OF REPORT OF SELECT COMMITTEE

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): Sir, I beg to present the Report of the Select Committee on the 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.

HINDU CODE—contd.

Mr. Deputy-Speaker: We will now proceed to the further consideration of the Bill to amend and codify certain branches of Hindu Law, as reported by the Select Committee. Shri Mukut Bihari Lal Bhargava will resume his speech.

Shri R. K. Sidhva (C. P. and Berar: General): Before we proceed to the further consideration of this Bill, we would like to know what is going to be the programme in regard to it. Will it go on indefinitely? I would request that by common consent some time-limit may be fixed on the speeches of members so that as many members as may be possible to be accommodated may participate in the discussion.

Mr. Deputy-Speaker: I may inform the House that this is an official Bill and they have provided for two days. The Speaker has no concern with it.

Pandit Mukut Bihari Lal Bhargava (Ajmer-Merwara): Sir, I have to resume my unfinished speech on the Hindu Code. But before I do that, Sir, I have respectfully to draw your attention to the declaration that was made by the hon. Prime Minister on the opening day of this momentous session.

Sir, the hon. Prime Minister was pleased to characterise this measure as a piece of simple and essential legislation. I respectfully protest that the measure that is for consideration before the House is not a simple one. I may also be permitted to point out that some of the opposers of this Bill have been accused by the hon. Prime Minister of adopting delaying tactics. Those who are well conversant with this Assembly and the proceedings that have taken place here will readily recognise that this measure has not at all been sufficiently discussed, this vital measure which affects the life and death, as I would say, of the Hindu society has been on the anvil of this legislature for only a very short time. If you refer to previous occasions when social legislation like the Sharda Act and the Hindu Women's Rights to Property Act was brought before this legislature, you would find what an amount of controversy they raised. Compared to those Bills, this Bill is enormously of great importance. It affects the entire structure of Hindu society. This Bill, Sir, if placed on the Statute Book—people may differ with me, the hon. Prime Minister may differ from me, but I do feel so—will result in the utter extinction of the Hindu society, not in the sense that thirty million Hindus will cease to exist, but that the distinctive features and characteristics of the Hindu society will cease to continue.

This is not a simple measure. But the fact is that this Bill aims at the utter demolition of the entire structure and fabric of Hindu society. It aims at changing the law of marriage, the law of divorce, the law of adoption, law relating to minority and guardianship, the Law of the Hindu Joint Family, the law of succession and everything that constitute and what remains of the features of Hindu society. The very foundations not only of one pillar but of all the pillars on which the Hindu society rests, are shaken. Therefore, Sir, it is but meet and proper that we as legislators, we who are the guardians of the interests of the people, should discharge our duty to the best of our ability and see how far the measure that we are considering is wanted by public opinion in the country. To characterise this measure as a simple piece of legislation is, I respectfully submit, not fair.

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My further submission is that if it is not proper to characterise it as a simple piece of legislation, it is still more unbefitting to characterise it as an essential measure. What is the need, I respectfully ask, for this measure? What will happen if this Bill is deferred and not brought on the Statute Book till the new legislature, the sovereign Parliament to be elected in free India on adult franchise is elected? Is there any malady from which the Hindu society is so vitally suffering that if a few months pass without this Bill being placed on the Statute Book, the whole society will crumble? I submit that in no sense of the term is it essential. We can very well afford to wait for one or two years more. The Hindu society which had successfully stood the test of centuries, the clash of many civilisations, the clash of foreign aggression and had been subjected for centuries to political subjugation can very well survive without this piece of legislation for a year or two more.

Sir, if we wait for.....

Shri S. Nagappa (Madras: General): Sir, on a point of order. The hon. Member is casting aspersions on the House when he said that this House is not competent to deal with this matter and that we should wait till a new House is elected.

Mr. Deputy-Speaker: There is no point of order in what Mr. Nagappa has said.

Pandit Mukut Bihari Lal Bhargava: Sir, in spite of the interruption of my hon. friend, I must assert that this House as at present constituted, is thoroughly incompetent to deal with a measure of this vital nature. The question is.....

Mr. Tajamul Husain (Bihar: Muslim): On a point of order, Sir. It has been decided by the Chair that this House is competent to deal with this Bill. After that ruling, can any hon. Member question whether this House is competent or not?

Mr. Deputy-Speaker: There is no harm. It is a ruling of the Speaker that this House is competent to deal with this Bill, and according to this, Bill is being pursued. If the hon. Member wants to raise other questions, or raise other reasons, other than legal technicalities, it is open to him to do so. But I would advise the hon. Member that this point has been raised by almost every one of the previous speakers and it has almost become stale.

Pandit Mukut Bihari Lal Bhargava: Sir, it is only the interruption of my friend here that provoked me to make that remark, I do not question the constitutional power of the Legislature to pass this vital measure. But the question is one of propriety. Can you usurp the functions of a full-fledged legislature, can this House which was specially brought into existence for the particular purpose of drafting the Constitution of India, do that? Therefore, I submit apart from the constitutional aspect of the question, apart from the point of legal power of this Legislature, it is a question of propriety, and propriety is of immense importance. And I feel that I have the right to assert, in spite of the interruption of my learned friend and those with him, that this House must think thrice before dealing with a measure of this vital importance. And my submission is that this measure is not essential and this Government need not have a declaration of a nature to make this question an issue of confidence before the House. The question has to be dealt with a calm mind, and we have to take into consideration the devastating effect that this measure will have upon the entire structure and fabric of Hindu society.

Now, coming to my speech from the stage I left it, I was dealing with the question of innovation that has been introduced in this piece of legislation, namely, the bringing in of a daughter in the rank and file of simultaneous heir with the

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son. My respectful submission was and is, that this innovation is wholly uncalled for, and that this innovation will demolish the entire structure of Hindu society. Let me ask, how this is possible. What is the real state of Hindu society? The difference between man and woman, the difference between the son and daughter, this is inherent in the very situation. The son has to remain all through his life, from his inception to his death, with the family in which he has taken birth. The daughter has to go to a stranger's family. What are the consequences resulting from this inherent situation? The Hindu law givers, the persons who gave us the scriptures, were they so degraded, were they so opposed to the fair sex that they did it only with a view to inflict an inequality or an injustice? I respectfully submit that this is a wrong reading of the entire scriptures and the Hindu Law. In fact, if the right of inheritance to the patrimony is given to the daughter, I shudder to think of the consequences. The hon. Dr. Ambedkar, the Law Minister, in his speech remarked, if a Hindu has twelve sons and one daughter, and if on his death his property could be divided into twelve shares, what heaven will fall if instead of twelve it is divided into thirteen shares? I respectfully ask the hon. Law Minister to take the opposite case, where a person has got one son and twelve daughters. What will happen in that case?

The Honourable Shri Jagjivan Ram (Minister of Labour): Thirteen shares.

Pandit Mukut Bihari Lal Bhargava: Is a family house to be divided into thirteen shares? Sir, think of rural India, do not think of urban India, with people living in palaces, but think of rural India where a family has got a very small house. If on the death of the father, his house is divided into thirteen portions, and the twelve sons-in-law are to be accommodated in that house, what will happen? And Sir, under the law as it is proposed to be made, it is open to the daughter to marry any person she likes, even if she takes courage to enter into marital contract with a non-Hindu she has no bar, and that is not a disqualification for inheritance. What will be the result? The result will be that every house, and every family will be reduced to a family of feuds in which there will be quarrels and worse still—murders too. Therefore, Sir, I respectfully submit that when you are making a law you are not to take into consideration only a concrete example of the character to which the attention of the House has been drawn by the hon. Law Minister, but you have to take into consideration every imaginable case, and it is on that footing that you have to frame the law.

Why this inferiority complex about the status of the daughter in Hindu society? I protest against its very implication. In fact, the daughter in Hindu society has got a very exalted and elevated position. Her marriage into a stranger's family does not cut off her connections with the natural family of the father. On every occasion, on occasions of births, deaths, marriages and other occasions she has to come and perform certain essential ceremonies, and on those occasions the Hindu family has to make presents to the daughter. The daughter's relations with her natural family continues all along. If she gives birth to a child, her brothers have to give her presents. Sir, I may further venture to assert that on the occasion of every marriage in the sister's family, the marriage of a male or female child, the brothers have to make presents. Presents are so essential on every occasion. That being so how can it be said, Sir, that the daughter does not get anything from the property? My submission is that the whole mental outlook with which this question is approached is diagonally wrong, if you consider it from the criterion of Hindu civilisation and Hindu ideals and ideas. Of course, if your criterion is not indigenous, if it is not Hindu, not Indian, but anti-Indian and anti-Hindu, then of course, you must take the opposite view.

Now let us consider what is the result of giving a share to the daughter in the family patrimony. You can see the Muslim family. The inevitable result of giving this share in the patrimony would be that marriages between cousins will be absolutely common, and sooner or later marriages even within prohibited degrees will come into existence, whether you like it or not. This is what the inevitable consequence would be. If you trace the history of the daughter's share in patrimony, in so many countries, in Egypt, in Greece, in Rome or under Islamic law, you will come to the conclusion, and the only conclusion, that if a share is to be given, then, you must necessarily widen the scope of the right to contract a marriage with first cousins. So far as the Hindu point of view is concerned, that would be a calamity which no Hindu family can tolerate.

I now proceed to the other point. Do you think, that by providing in this piece of legislation that a daughter has an equal share with the son, you will be carrying out what you intend to do, that is to say, you will be conferring any rights to property on the daughter? I respectfully submit, Sir, that it is not. On the other hand, you will be letting loose and creating scope for so many evils. Under the law as it is incorporated in the Hindu Code, it will be open for any father to make a gift *inter vivos* in favour of any of his sons, or to dispose of the entire property by a testament. Is there any bar to this, I ask. If there is no bar, then, unless and until the society is prepared to give an equal share to the daughter, the only result of this legislation would be testamentary disposition or gift *inter vivos* of the entire property by the father to the sons. As a lawyer, I have some experience of courts: there are other friends here who have full experience of courts. Is it not a fact that in every ten cases of testament and codicil, nine cases go to the court and give rise to very prolonged litigation? Not only questions regarding the disposing capacity, but questions about the testator being a free agent in executing the will and codicil are raised; complicated questions about the construction and the interpretation of the different clauses of a complicated document like a testament are raised: not in one court, but right up to the highest court, the Privy Council. If that is the situation, may I ask how you will be able to safeguard the interests of the daughter. My respectful submission is that you will not be safeguarding the interests of the daughter by making this disastrous piece of law, but you will be doing her a positive harm which it will be difficult for you to undo. The very psychological approach of a Hindu family will change. As soon as it is provided in the law that a daughter has a share in the patrimony, the brother will think himself absolutely relieved of the duty of maintaining his sister and providing for the marriage expenses. What is the condition of the Hindu families today? What is the percentage of the families that have got immovable properties? My submission is, it cannot be more than forty per cent. What will become of the rest of the 60 per cent. of the families, I shudder to think. What will be the result in the case of these 60 per cent. of the families governed by the *Mitakshara* law, who have no property at all? Because by law the sister is made equivalent to the brother, the brother who feels a burden and responsibility to bring up the sister up to the time of her marriage and conduct the marriage, to give her dowry, to give her everything, that sincere brother will feel relieved of his responsibility. That would be the result, and the only result, of this disastrous provision, without any corresponding benefit to the daughter. Therefore, my respectful submission is, not on the ground that the daughter is not equal to the son, nor because of any prejudice against the fair sex, but in the interests of the daughter herself, that this provision should not be enacted. Of course the daughter has got other means to safeguard her interests. They can get valuable rights in the property of their husband, in the property of their father-in-law.

Shri L. Krishnaswami Bharathi (Madras: General): We have already given that.

Pandit Mukut Bihari Lal Bhargava: If that is already given, then, there is absolutely no necessity to give her a share in the patrimony. Even as I understand the law, a right of a limited character has been given; you can certainly widen that and give the daughter a right equal to that of her husband in her father-in-law's property. That is a very good suggestion which we can consider.

Now, Sir, I come to the other important change in this revolutionary piece of legislation: I mean the disruption of the joint family status. A very important feature is that under section 86 of this Bill, no court of law will hereafter be entitled to take cognisance of the right by birth. I shudder to think of the evil consequences flowing from this provision. It is said that Bengal, and Assam are already governed by the *Dayabhaga* system of law which does not recognise the joint family status, under which every family member occupies a position of equality. Does it mean that this system should be extended to the whole of India? If five crores of people are governed by this system, and twenty crores by the other system, is there any justification in law for extending the law of the five-crores to the other twenty crores? I say this is absolutely wrong. My submission is that the right of acquisition by birth is a valuable right of a Hindu son. It is a right which provides against the prodigality and spend-thrift character of the father. It is this valuable right that has saved the properties of so many thousands of Hindu families. It is this right that is being done away with by this disastrous piece of legislation, in section 86. Not only this; section 87 provides that every joint family will have a compulsory disruption on the coming into effect of this unique piece of legislation. Why should there be a compulsory partition? My submission is that these provisions are not of a simple character; they are of a revolutionary and radical character and there is absolutely no reason why changes of this enormous character should come into existence.

Then, I come to the very important provision incorporated in the Bill about what is known as dissolution of marriage. The clause that deals with this is clause 30. It lays down the grounds upon which dissolution can take place. The other clause relevant is clause 33 which lays down the grounds upon which judicial separation can be claimed by a party to a marriage. Then, there are provisions for the declaration of a marriage as void or voidable. These are absolutely novel provisions so far the Hindu Law and Hindu society is concerned. In fact these provisions of law and the other provisions of law incorporated in this Bill have created a paradise for lawyers. For declaring a marriage void the matter can be taken to a court of law. For getting a marriage dissolved the parties can go to a court of law. For seeking a judicial separation they can go to a Court of law. What are the lessons learnt from the cases of dissolution of marriage in so many European countries. It is indeed surprising and astounding that the experience of western countries and the experience of America and England where in every six marriages there is a case of one marriage dissolution, has not given any lesson to us. We have not had this position in our society at any stage of our society and why should we introduce compulsorily the resort to a court of law. Clause 34 provides that every dissolution or marriage can only be through the medium of District Courts and it also provides that every case of dissolution must automatically go to High Court for confirmation under clause 44. I ask whether it is not opening a door for lawyers to prosper. Should any piece of legislation set the ball rolling for more litigation in the society. My submission, therefore, is that the provisions for judicial separation and for dissolution of marriage as incorporated in clauses 30 and 33 are not only opposed to accepted ideals of Hindu Society, they are

diagonally opposed to our civilization and culture, they are directly contradictory to the sacramental marriage because it is not a contractual relationship that can be brought to an end by the whim and caprice of any of the parties but it is a sacred bond of union which has its root in the past and which will have its effect in the future. That is the conception of Hindu marriage. These provisions of judicial separation or dissolution of marriage are diagonally opposed to what is our conception of marriage and still when the western countries which have been habituated to this sort of marriage relations—divorce and everything—when they are feeling tired of it, when the sanest of their thinkers are thinking of this system as ruinous to society, it is indeed a wonder that we are trying to imitate it. My submission therefore is that you should be very careful. What are the grounds of judicial separation? A case of adultery. The law says that the marital relations can be brought to an end by judicial separation or by dissolution of marriage. The germs are there before the couple and I would respectfully draw the attention of the House whether it is not a fact that if there is a quarrel—naturally there is bound to be quarrel in families so many times—if these provisions exist in the bill, they will give an incentive to the couple at any time of quarrel or even family scuffle to seek the remedy of the court and Sir, it is very cheap because the charge of adultery can be brought by a woman against her husband or a husband against a woman very easily and there are interested persons everywhere to disrupt the families. Result would be for very flimsy reasons there will be cases of divorce. It therefore will be ruinous to Hindu society. Our society has survived the onslaught of so many centuries and has successfully stood in the world as the ideal form of institution notwithstanding the onslaughts because of the inherent system of *pativrat*. These provisions do not even help those communities which are by custom taking resort to divorce. They create a great obstacle and compel them to go to court. It is opposed to our culture and civilization and our accepted ideals of ideal marriage life. One argument has been repeated often viz., there is nothing radical or revolutionary about this measure, and the provisions regarding marriage and divorce are of a permissive and enabling character. If that is so, why not scrap all these provisions from clause 5 to 51 and make one clause in the bill that every Hindu shall be competent to marry any person he likes because that will be only an enabling provision. He can very well, at his own risk, marry his own sister. Therefore it is no use providing such a comprehensive bill with so many sections. Why not scrap them and provide one general section and it will be a model of simplicity as also a model of the civilization and the stage through which we are passing. My submission therefore is these provisions from a Hindu oriental point of view are simply repulsive and could not be incorporated and cannot be tolerated in a bill of this nature.

I come to the next point. Under the provisions of this bill, clause 91 is the relevant clause—every property that comes to a female either by inheritance from father or from father-in-law or from any other source will be her absolute property and the rules of devolution of female property are provided in clauses 106 to 109. These provisions are also not conducive to the attainment of peace in family life, and are of a disastrous character. Here again every provision is opposed to the accepted conception of Hindu ideal and you will find that the property which a female inherits and which according to clause 91 will be the absolute property of the female will descend in the order also prescribed under clauses 106 to 109. That is, the first persons to inherit will be the husband and children equally. If there is no husband or children, then who are the persons under the bill who will be entitled to inherit the property. There are mother, father and husband's relations. May I ask humbly and respectfully every honourable Member of this House whether there is any father or mother in this land of Hindus who will relish property from his or her daughter?

Shri L. Krishnaswami Bharathi: Why not? What is the harm?

Pandit Mukut Bihari Lal Bhargava: Perhaps my honourable friend comes not from India but from an outside country.

Shri L. Krishnaswami Bharathi: I come from South of India.

Pandit Mukut Bihari Lal Bhargava: In India no father nor mother will ever think of receiving anything from the daughter.

Shri L. Krishnaswami Bharathi: That may be so in the Punjab.

Pandit Mukut Bihari Lal Bhargava: It is so in the whole of Northern India. I cannot speak with authority about South India. But so far as Northern India is concerned the very idea is repulsive. Of course there is an exception to this rule among those who count money and property over every thing else. To them *dharma* is no matter of their concern. But I am not talking of those exceptions. I am talking of the ordinary father or mother in Northern India. Their souls will revolt at the thought of accepting anything from their daughter. In *kanya dan* when a father and mother sitting together give their daughter to the bridegroom as also dowry and ornaments, after that in our part of the country the mother or father will not even take water in the house of the daughter.

Shri L. Krishnaswami Bharathi: It is not so bad in our part of the country.

Pandit Mukut Bihari Lal Bhargava: That might be a custom or usage prevalent in your part of the country but in my part of the country, an overwhelming majority will be opposed to the idea. They cannot even imagine receiving any inheritance from the daughter. Therefore the entire fabric of the rules of devolution is based on anti-Hindu ideals. If Mr. Bharathi takes the trouble to go into the rural parts in my part of the country he will be surprised to find, let alone the father or mother, even the inhabitants of a village will not drink water in another village into which the daughter of their village is married.

Shri L. Krishnaswami Bharathi: I am told that they do not even pass through such a village.

Pandit Mukut Bihari Lal Bhargava: Under the rules of devolution after the father and mother who are the persons entitled to inherit the property of the female? If it provides that that will go to the husband's relations it is repulsive and it will create family feuds. Why should property go to the husband's relations, if it has come to the daughter from the father? That is why our law-givers have made several categories of *stridhana* which will accrue to different categories of people. You are not competent to understand the higher motives of our law-givers who made those salient provisions and you want to sacrifice their ideals at the altar of simplicity. According to our accepted notions of *stridhan* if the property has come from the side of the father it is the father's relations that are entitled to it. Why should not a provision of this character be incorporated in sections 106 to 109. That would be more acceptable to Hindu ideology.

I now come to the other provisions of the Bill. On the day the Code comes into force the joint tenancy will be deemed to have been converted into tenancy-in-common. The Bill makes a provision in clause 115 that it is open to every heir to go to a court of law and claim partition of the family property. Is this provision conducive to the preservation and maintenance of peace in the family? After the death of the father, the daughter, the son, the widow of a pre-deceased son, etc., will rush to a court of law and claim partition as required by section 115. This will be like the Islamic law, entirely repugnant to Hindu ideology and cannot be tolerated in a Bill of this kind.

It is claimed that this Code will resolve conflicts of opinion, that it is an exhaustive piece of legislation providing remedy for every malady in Hindu *dharma*. Are there not any omissions in the Bill and until they are filled in, will it not shatter the Hindu society?

Under clauses 88 and 89 you abrogate the doctrine of Pious Obligation. Under clause 89 you provide that the family members will be entitled to pay the duties existing on the joint family. What provision have you made when the father dies? Who is to bear the funeral expenses or make provision for *shraddhs*, or the other charitable objects connected with such occasions. Once this Code is brought on the Statute Book, will there not be fight and feud between the different heirs? On the death of a father every son and daughter will be so absorbed in assimilating the wealth of the father that they will forget their duty to perform the *shraddhs*, which are essential for any self-respecting family. There is absolutely no provision in this regard in this Bill.

Does the code provide for the Hindu joint family? In Hindu Law there is a distinction between co-parcenary property and joint family property. What is the number of families in India carrying on business? Is there any provision within the four corners of the Bill for that? How will succession take place in joint family business?

You claim exhaustiveness for this Code. Have you made any provision for an adopted son. Under clauses 52 to 54 every Hindu male on attaining the age of 18 is entitled to adopt a son with the consent of his wife. After adoption if the father gets his own son what will be the son's rights in the patrimony? Does your code present any solution of this problem? Our Hindu law-givers or *smritikars* make ample provision for different parts of the country. What is the position of a son born after adoption of a son by the father?

In *Dauahhaga* he gets one-half; under *Mitakshara* he gets one-third; in the Bombay Presidency he gets one-fourth. Have you made any provision here? If not, will it not create confusion and confusion of a worse character? Have you made provision for partition of the joint family property and so many other things which are an essential, and complicated, branch of Hindu Law? My respectful submission therefore is that this will create problems and questions which it will be very difficult to answer.

Then the question arises what will be the rights and duties of a son who has no share in the joint family property. Under the present circumstances a son by birth has got rights in the property and that is a shield behind which he can stand for his maintenance, education and other things. You may point out to me the provisions of clauses 126 and 128 of your Bill which lay down that it will be the duty of every husband to maintain his wife, and the wife may claim separate maintenance from him on certain grounds as those of illness like leprosy etc. There again is the door for litigation and a paradise for lawyers. And in clause 128 you will say you have provided for the maintenance of children and aged parents. But by providing for maintenance under clauses 126 and 128 are you effectively safeguarding their rights? My submission is you are not. You are placing them in a worse position than what they occupy under the present Hindu Law. Under the present Hindu Law a son has an inherent right to maintenance out of the family property, and if the father or manager or *karta* of the family is so undutiful as not to look to his interests he has his remedy in a court of law. He can even claim partition. Every student of Hindu Law knows that while a minor has very restricted rights to claim partition in Hindu Law, if the father or the manager or *karta* of the family abuses his power to the detriment and prejudice of the minor he has the legal remedy open to him and he can proceed in a court of law to enforce his right to partition. That is a valuable right and you are taking away that valuable right.

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Similarly you say that in clause 126 you have provided for the maintenance of the wife and in clause 128 you have provided for the maintenance of children and aged parents. If a husband happens to be penniless, if he cannot earn, if he has got nothing to support himself, how can he support his wife? Therefore I submit that this pseudo right conceded to the wife is only a sham and a paper right. In the present Hindu Law every wife, every female has a valuable right of residence and of maintenance and she can enforce the right through a court of law if the manager or the *karta* abuses the right.

Shri L. Krishnaswami Bharathi: Even if her husband is penniless?

Pandit Mukut Bihari Lal Bhargava: I am talking of joint family property. The matter will be different if you decide by a piece of legislation that every piece of property is to disappear and there should be socialisation and nationalisation of every property. But, keeping intact the institution of joint family you are depriving the minors, the widows and the females of their valuable rights which exist under the present Hindu Law. In the name of equality which is sham and paper equality you are perpetrating a wrong which it will be very difficult to remedy. My submission therefore is that judging from every point of view this piece of legislation is not only opposed to the accepted principles of Hindu Law but is liable to create such confusion in Hindu society which it will be very difficult to overcome or remedy.

Sir, before I conclude I have to sum up what I stated on the 2nd of April and now. I said that there is absolutely no necessity and no desirability of the codification of Hindu Law. It is neither necessary nor desirable. It is not wanted by judicial opinion in the country. There is no conflict of authority of such a serious character as to warrant the interference of a Legislature. There is no public demand for a measure of this character. The *quantum* of evidence upon which the Rao Committee relied was analysed by me in my speech on the 2nd of April and I pointed out that the overwhelming weight of opinion in the evidence recorded by the Rao Committee was opposed to every innovation and change that is incorporated in the Rao Committee Bill which has been further aggravated in the present Hindu Code Bill as it has emerged out of the Select Committee. On every point, on the question of divorce, on the question of sacramental *cum* civil marriage, making sacramental marriage liable to be converted into civil marriage at one's sweet will under clause 21, there was opposition, and opposition from every quarter. From every quarter the overwhelming weight of opinion was against the ending of the joint family status. Therefore, on every crucial point the overwhelming opinion was against the Rao Committee Bill. Even now in the opinions that are pouring in from the various quarters in the country, from judicial quarters, from bar associations, from other citizens, there is a unanimity of opinion that a measure of this subversive type is not at all required under the present circumstances. Therefore, I had submitted, and I repeat it today, that codification of the Hindu Law is neither desirable nor necessary.

I have pointed out that the marriage provisions contained in the Bill are a misnomer for marriage. It is in fact introducing the principles of Islamic and Christian marriages into the Hindu Code under the garb of sacramental marriage. It will be a sham. It will be shameful for any Hindu to go into a marriage of this character which is liable to be changed at one's sweet will into a civil marriage. This cannot be tolerated.

Shri S. Nagappa: This Bill does not prevent sacramental marriages.

Pandit Mukut Bihari Lal Bhargava: I have already met your argument, an argument that is often repeated on the floor of this House and outside, that this is an enabling measure, a permissive measure. If that is so, scrap off

everything and have one omnibus clause in the Bill that everybody is competent to marry anybody. That will meet the requirements. Why do you make a fetish of the sacramental marriage? The sacramental marriage of the character you have provided in the Bill is nothing but a mockery, an insult to the time-honoured institution of sacramental marriage. It is only a misnomer to deceive the people, to convince them that there is no departure from the established practice. It is a hoax that is sought to be perpetrated on the Hindu society. No self-respecting Hindu can possibly tolerate this state of affairs.

Better do away with these provisions commencing from clause 5 to 52. They are wholly opposed to Hindu ideology, to Hindu culture and to Hindu civilization. That is my submission in respect of the marriage provisions. As regards the divorce clauses I had already made my submission. About adoption, I had said and I repeat it today that the very conception of adoption is a creation of Hindu law, and if you cannot in this modern age, on account of what you call your advanced views, subscribe to that ideal of adoption, then do away with adoption altogether but don't provide for a hotch-potch adoption of the nature you have done. According to the provisions of the Bill, every person, every Hindu, can be adopted as a son. There is no restriction of *Gotra*, there is no restriction of caste, there is no restriction of the status, and it is left to the person concerned to adopt any person. Those who are well conversant with the codes of Hindu law very well know how the adoption of a stranger in the family has been the source of litigation. There are well-established customs and usages having behind them the sanctity and authority of judicial pronouncements whereby only a member of a family of the same *Gotra* can be adopted. All those usages, all those well-established customs are very easily given the go-by; without even thinking of the disastrous consequences this step is being taken. I shudder to think of the very terrible consequences that are bound to follow from a provision of this character. Better do away with the institution of adoption altogether rather than provide for adoption of this kind. In fact, I may be permitted to remark—and I do so with full responsibility—that the sponsors of this Bill had an inherent abhorrence, an inherent hatred against everything related to Hindu culture, and that is why we find provisions of this character being included without appreciating or finding out what were the motives of the Hindu law-givers in providing for adoption. The sole purpose of adoption under the Hindu Law is that a person may have a son to administer to his spiritual needs, to offer oblations on his death. That is the sole purpose of the conception of adoption but by making a provision that any Tom, Dick and Harry can be adopted you are cutting at the very root of that conception. Do not, therefore, make such a provision. Better do away with adoption. It doesn't exist in so many societies. Where is the necessity to perpetuate it if you are so averse to it? But then do not make a mockery of the conception of adoption.

Sir, I shall submit that every provision in this Bill has got a stigma which is anti-Hindu and therefore cannot be acceptable to any Hindu. To me this Bill is an insidious effort on the part of its sponsors to take the Hindus out of their Indian moorings and to launch them on foreign waters of Arabia and Jerusalem. Where is the necessity for this Hindu Code? Why don't you extend the provisions of the Indian Succession Act of 1925 by a stroke of the pen to the entire Hindu community? By this very convenient and simplified method—and we are very much enamoured of simple legislation—it will be very easy to provide for the entire Hindu society.

Before I conclude, I think it is my duty, and an honest duty, to sound a note of warning. You very well know that the Hindu law is a law not piloted from outside. It is not an imposition from above, it is not the creation of a sovereign power, it is not the result of a ukase of any king or of any legislature.

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That is the greatest merit about it. It is a spontaneous development from centuries past. The texts of the *Smritis* and the *Nibhandhaks* have not created the laws; they have only explained and elucidated the accepted principles of Hindu Law, but those principles as readable from the texts have never been the governing force of the Hindu society. The governing force of the Hindu society has been a consistently developing usage and custom governing the different sections of the society. That development was spontaneous. In fact, looking at it from a realistic point of view, the Hindu society is a working legislature in continuous session not of the few selected persons as this House is but a legislature of the entire community, that modifies and moulds its law according to its requirements. That is the supreme beauty of Hindu Law. And that you are distorting, that you are deforming by this piece of legislation by taking from it vitality, elasticity, mobility, spontaneity and adaptability to the everchanging circumstances of the society. Sir, I as an humble Member of this House have a duty to say that you must be very careful before you tamper with it. It is a law that has come into existence as a result of centuries of development and before you tamper with its time-honoured institutions, customs and usages, you should keep one thing in mind. The India of ours does not reside in urban towns like Allahabad and Delhi. The real India lives in the five lakhs of villages. The life of the villagers is so intimately interwoven with the texture of their society that whatever modifications you might make by this piece of legislation, they will resist to the limit of their might before you take away from them the time-honoured usage and customs to which they have been submitting as a matter of course for centuries. Without doing any benefit to the Hindu society, you will be opening the door for a few disgruntled persons who want to take advantage of this innovated piece of legislation.

Dr. Mono Mohon Das (West Bengal: General): Is he not casting aspersions on some of the Members of this House? He has repeated the same thing so many times.

Pandit Mukut Bihari Lal Bhargava: I have not referred to any Members of this House. My hon. friend should have the patience and the tolerance to hear the opposite views. My submission is that you cannot put a brake to this spontaneous growth and development of Hindu law by this piece of legislation and if you pass it, you will be spoiling the beauty of Hindu law rather than adding to it. This piece of legislation is so disastrous in its character and so destructive in its nature that it is difficult to imagine the bringing of a constructive approach to bear upon it. The hon. Prime Minister and Leader of the House suggested the other day that we should meet in a formal or informal committee to devise a compromise upon which the orthodox and unorthodox sections can agree. I join issue with him. But I feel that the Bill has been conceived with a mental outlook and psychology which is wholly repugnant and unacceptable to Hindu ideology. Consequently, in spite of our sincere efforts to arrive at a constructive approach to this measure, it will be very difficult to do so. The safest course for the Government to adopt is to withhold this measure and wait for a more opportune time for a legislature elected on adult franchise with a mandate from the electorate to change the entire structure of the Hindu society. Until and unless there is such a mandate, I submit, and I question and question with vehemence the propriety of this legislature to deal with a measure of this vital importance to the Hindu society.

With these words, Sir, I resume my seat.

Shri Loknath Misra (Orissa: General): On a point of order. Although I do not desire to oppose the consideration of this Bill, I think its consideration is totally barred and bolted by the very Constitution which we have recently passed. Of course, it may be argued that it has not yet come into force. But we are quite sure that we are not going to pass this Bill this time and by the time the Bill is passed the Constitution must have come into force. If you will permit me, I will detail my reasons for saying that this Bill is against the Constitution.

Mr. Deputy-Speaker: I have heard the point of order sufficiently. The new Constitution has not yet been implemented. It has not come into force. I do not propose to give any ruling on the question as to whether it will stand in the way of this Bill being passed into law if it comes into force. Under the present Constitution, this House is thoroughly competent to get on with this Bill.

Shri T. T. Krishnamachari (Madras: General): In view of the importance of this measure and the fact that the number of people who want to speak is large, would the Chair consider the desirability of using its discretion and imposing a time-limit?

Some Honourable Members: No, no.

Some Honourable Members: Yes, yes.

Mr. Deputy-Speaker: Order, order.

Shri M. Pirumala Rao (Madras: General): This point was raised by Mr. Sidhva and disposed of by you.

Mr. Deputy-Speaker: Mr. Sidhva raised another point. He wanted to know if this House would continue the discussion tomorrow and what length of time has been allotted. It is an official Bill and it is for Government to allot the number of days. I replied. The position is that the Speaker can only say whether debate on a particular Bill has been sufficient or not. So far as this Bill is concerned, hon. Members are fully aware that no time-limit can be imposed. (*Hear, hear*).

Hon. Members will kindly wait and see. The general discussion on this Bill was begun so early as 24th February 1949. It continued on the 25th, 26th, 28th, 1st March, 1st April and 2nd April. One hon. Member took six hours and eight minutes. We spent in all 6 days, 9 hours and 20 minutes. All the same, only 14 hon. Members have spoken so far. The last speaker who has just concluded, Pandit Mukut Bihari Lal Bhargava, started at 3-15 p.m. on 2-4-49 and went on till 5 that day—one and a three-quarter hours. Today he went on from 11-50 to 12-57. At this rate, we will have to sit nearly a year if all hon. Members are to have a chance to speak. Many of the points which have been made in the speeches are all very enlightening. I say nothing against the speeches. But I have received a large number of requests from hon. Members for opportunities to speak.

Pandit Lakshmi Kanta Maitra (West Bengal: General): We are all in so much darkness. We want light from every side.

Mr. Deputy-Speaker: Light from every side is coming, but if we proceed at this rate, light from many sides would not come. Therefore, I would request hon. Members to limit their speeches, as far as possible, to half an hour. On all Resolutions fifteen minutes are placed at the disposal of hon. Members and they are able to put their cases perfectly well within that time. I have given twice as much time. But I do not insist upon it. It is simply my suggestion to the House. Otherwise, if a closure is applied tomorrow, possibly by that time a number of Members may have spoken and sometimes wittingly or unwittingly if the House is in favour of closure, it has to be accepted. I am giving a warning in advance.

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): I only want to say that I hope to finish before the time-limit fixed by you. I hope you will permit me to proceed in the afternoon.

Mr. Deputy-Speaker: It ought not to be said ahead. I am leaving it to hon. Members to decide, so that all Members may have equal opportunities. Normally, half an hour is the time-limit I suggest. If the House agrees.

Some Honourable Members: Agreed.

Some Honourable Members: No, no.

Mr. Deputy-Speaker: Order, order. Mr. Sahu wants to say something.

श्री लक्ष्मीनारायण साहू : उपाध्यक्ष जी, मैं यह जानना चाहता हूँ कि जो मेम्बर

पांच, सात और १० मिनट बोलना चाहेंगे क्या उनको पहले बोलने की सुविधा दी जायेगी ?

Shri Lakshminarayan Sahu (Orissa: General): Sir, I would like to know if priority for speaking will be given to those Members who are willing to restrict their speeches to only five, seven or ten minutes.

Mr. Deputy-Speaker: Therefore, if I have to accept that suggestion, I hope hon. Members will also indicate in their letters to me how many minutes they are likely to take and I will ring the bell as soon as that minute is over.

Pandit Lakshmi Kanta Maitra: Before you adjourn, I want to say just one thing. You said just now that it will be perfectly open to Members to move closure. But according to all parliamentary procedure, it is open to the Speaker to say whether there has been sufficient debate or not and whether the closure is justified or not. That is a well established practice and you also reiterated that you follow that. In view of that statement, do you say beforehand, even today, that you will have to accept closure tomorrow?

Mr. Deputy-Speaker: The Chair has no right to make up its mind in advance. It is now 1 o'clock and the House stands adjourned till 2-30 p.m.

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

The Assembly re-assembled at Half Past Two of the Clock, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

HINDU CODE—Contd.

The Honourable Shri K. Santhanam: Sir, I rise to offer my whole-hearted support to the Hindu Code as it has emerged from the Select Committee. Sir, I have been watching the progress of this law-making from its earliest beginnings. I had the privilege of tendering evidence before the Rau Committee and since it has emerged from that Committee it has undergone many changes and, in my view, steady improvement.

Sir, I feel that this Hindu Code is merely a continuation, in the social sphere, of the great Constitution we have completed the other day in our capacity as a constitution-making body. Sir, what are the basic factors of that Constitution? It is based on the unification, on the integration and on the strengthening of India as one political entity. Similarly this Bill is based on the principles of unification, integration and strengthening of the Hindu community. Sir, unless the Hindu community is unified, integrated and strengthened. I do not see how the great Constitution we have made can be successfully worked.

Pandit Lakshmi Kanta Maitra: Unified by divorce?

The Honourable Shri K. Santhanam: The idea that politically you can be well-advanced, that in the field of economics you can preach socialism, but yet be a believer in social stagnation is wholly incompatible and unrealistic. India has to move on all fronts, or not at all and I think the change and reform in the social sphere is as indispensable as our progress in the political and economic spheres.

Pandit Lakshmi Kanta Maitra: Democracy in marriage also?

The Honourable Shri K. Santhanam: My hon. friends may well ask why we should not compile a code for the whole country rather than a unified code for the Hindu community alone. Well, Sir, while we were making the Constitution there were many who were asking why we continued to have provinces, why we were building on the Government of India Act and why we were continuing to have Rajpramukhs? Sir, our argument in reply was that while we wanted change and reform we wanted to build, as far as possible, on the existing foundations, that we wanted a judicious combination of conservation of the existing forces and the forces that make for change and reform. This Bill is based on the same principle. It seeks to conserve as much of the Hindu law as is consistent with modern needs and ideas and it seeks to change wherever such change is necessary. I think that is the only way the whole country as well as the Hindu society can progress without internal disruptions and violent revolutions. Sir, our policy is one of peaceful and voluntary change and this Bill is a notable attempt in that process of peaceful change in the social sphere.

Sir I don't want to go into the clauses of the Bill. The time is not yet ripe for it and when we take up clause by clause it will be time to scrutinise particular provisions.

Pandit Lakshmi Kanta Maitra: That stage will not come.

The Honourable Shri K. Santhanam: Well, let us see.

Pandit Lakshmi Kanta Maitra: Not unless there are elaborate lathi charges outside.

The Honourable Shri K. Santhanam: There were people who were prophesying that the Constitution would never be passed; but we have passed it. In the same way, we are going to put this Bill on the Statute Book.

Sir, I am not saying that certain clauses, or even parts are not susceptible of slight changes or adjustments.

Pandit Lakshmi Kanta Maitra: Slight!

The Honourable Shri K. Santhanam: But I shall confine myself to the broad principles contained in the Bill and leave details to a future occasion.

Sir, this Bill has got four aspects, namely, codification, unification, rationalisation and reform.

Sjt. Rohini Kumar Chaudhuri (Assam: General): And falsification too.

The Honourable Shri K. Santhanam: Well, I will leave that part to you. So far as the parts dealing with adoption, with minority, with guardianship and with maintenance are concerned, they are simply codification of existing Hindu law. (*An Honourable Member:* Question). You may question it, but I think Sir B. N. Rau is a far greater legal authority than the hon. Member.

Pandit Lakshmi Kanta Maitra: That is absolutely no argument. He may be or not. I can understand an argument—but this sort of talk I cannot stand.

Mr. Deputy-Speaker: Order, order.

Pandit Lakshmi Kanta Maitra: But what is the meaning in arguing that such and such a man is far above anybody else here? Is that any argument?

Mr. Deputy-Speaker: There is no meaning in all hon. Members talking simultaneously. Each hon. Member will have his turn and I am prepared to sit here as long as the House wants me to.

So far as the hon. Member's reference to Sir B. N. Rau is concerned, he probably meant that he was a Judge of the Calcutta High Court and it is not unparliamentary to say that the opinion of a particular person is highly valuable. Even as an individual the hon. Member perhaps meant that he knows him much better than any other Member of the House.

The Honourable Shri K. Santhanam: Sir, I merely stated that Sir B. N. Rau is a better legal authority than the questioner.

Sjt. Rohini Kumar Chaudhuri: On a point of order, Sir, Hindu Law is absolutely and intimately connected with Hindu religion. Can anyone tolerate the idea of a non-Hindu being an authority on Hindu Law and principles?

Mr. Deputy-Speaker: I can well appreciate differences of opinion among hon. Members. But there is no room for excitement. Let there be patience first and all hon. Members will certainly contribute to the debate in a harmonious atmosphere.

Shri L. Krishnaswami Bharathi: The hon. Member who just now interrupted seems to say that Shri B. N. Rau is not a Hindu; it is an insinuation which should not be allowed. Shri B. N. Rau is not here and it is your duty, Sir, to protect him.

Mr. Deputy-Speaker: I am not in a position to say to what religion any particular person belongs. I do not know it personally. But I expect hon.

Members to keep within limits, and because they have got certain privileges, they should not defame others. They should keep within limits, and if an hon. Member makes an aspersion, it will be wrong.

The Honourable Shri K. Santhanam: Sir, I do not mind interruptions; but if those who are opposed to this Bill think that they have the monopoly of such tactics, they are mistaken. Sir, I assert with all the emphasis I can that Shri B. N. Rau is as good a Hindu as any in this House. And so far as I am concerned, I may say that my ancestors have come from very orthodox Hindus, and up to this moment we have not eaten even a little bit of fish, and I may claim to be more orthodox than . . .

Shri H. V. Kamath (C. P. and Berar: General): Is eating or not eating fish a test of orthodoxy?

The Honourable Shri K. Santhanam: In my part of the country eating fish is considered to be the most heterodox fashion.

Pandit Lakshmi Kanta Maitra: And in my part of the country eating iddies and rasam is considered most objectionable.

Mr. Deputy-Speaker: Let hon. Members come to more lasting things like marriages and divorce, than iddies and fish.

Shri R. K. Sidhva: Let us not reduce the House to a fish market.

The Honourable Shri K. Santhanam: I again say that so far as adoption, guardianship, minority etc. are concerned, they are merely codification of existing law, as can be found in the judgments of British courts. Sir, whatever Manu might have written, whatever Yagnavalkya might have written, the present Hindu law is the law as interpreted in the British Courts for the last one hundred and fifty years, and against this interpretation, even Manu and Yagnavalkya are utterly helpless. So the Hindu law now is the law as interpreted and as laid down by the British judges in this country.

An Honourable Member: British judges?

The Honourable Shri K. Santhanam: British or Britishized judges. Therefore, Sir, I think we are at least as competent to change that law as the British Judges who have changed the ancient law into the present Hindu law as it is.

Sir, I come now to the next aspect of the Hindu Code—the unification portion of it. I am surprised that any Hindu looking to the future should say that so far as the law is concerned, no unification is necessary, that each part can have a regional law, that in Bengal we can have the Dayabhaga law, that in Malabar they can have the Marumakkattayam law and other parts the Mitakshra law and so on, that everything should be as it was in the ancient days. I cannot understand people when they say that in politics and in economics we shall be in the year 1950 A.D. but so far as the law is concerned we shall be in 1950 B.C. Sir, to say so is wholly a disintegrating and disastrous proposition. If Hindus have to be one community, if they have to have vitality they must all come under one law, whether it be Dayabhaga or Mitakshra. I can understand some people saying, "Let us have Mitakshra" or "Let Bengal come under Mitakshra". I can understand other people saying, let them all come under the Dayabhaga law. But to say that Hindus should be dissected into various regional groups, each having its own law, so that if a Bengali goes to Malabar, the courts would have to interpret three types of Hindu law, that I think, Sir, is pronouncing the doom of Hindu society. Sir, the enemies of Hindu society cannot ask for anything

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better than that Hindus should be administered by a dozen regional laws. Sir, by this Bill we are at last bringing Hindu society under one unified Hindu law, let it be any law, but it should be one unified Hindu law for the entire Hindu community. Sir, in this Bill . . .

Sjt. Rohini Kumar Chaudhuri: Sir, on a point of order, the hon. Member is speaking communalism in this House. He is talking of unifying all the Hindus, probably against the Muslims and others. He wants one law for the Hindus; so he is preaching communalism.

Mr. Deputy-Speaker: This point of order only enlivens the debate, but it is not really any point of order.

The Honourable Shri K. Santhanam: Sir, the day this Bill is put on the Statute Book, the whole process of assimilation will begin and it will not be long before the rest of the Indians in this country will begin to conform to that law, and if necessary, we shall give them minor changes so that the whole country will come under one civil code. Sir, this process is not a disintegrating process but a cementing process. The process will go on and before long.

Pandit Lakshmi Kanta Maitra: It is going on outside.

Shrimati G. Durgabai (Madras: General): It is going on inside.

Pandit Lakshmi Kanta Maitra: Inspired by you.

The Honourable Shri K. Santhanam: I have been in this House too long to be worried by these interruptions.

Now, the question is whether we should prefer the Dayabhaga law or the Mitakshra law. My friend Pandit Mukut Bihari Lal said that Mitakshra law is followed by twenty crores of people and Dayabhaga is followed by five crores, and asked why should we choose the law of the five crores rather than the law of the twenty crores. I do feel that comparatively Mitakshra law was intended to serve the needs of ancient rural communities whose main property was agricultural land. It was on the basis of that conception of society that the right of birth and the right of survivorship were evolved. But we are fast evolving out of that primitive community into a modern community in which property goes from the immovable to the movable property. You have immovable properties diminishing and movable properties increasing. Even immovable property is being converted into movable property, in the form of shares, cash savings deposits and government securities and other things. Therefore, we should adopt that system which is in tune with these changes from the tangible immovable property to intangible and notional property. Where property is largely intangible, this right of birth is really impracticable. You cannot enforce it. It will always be open to the father to dispose of securities or shares or movable property. It is not possible for a son to inherit a right in shares. It is possible for him to inherit a share in agricultural land, but it is not possible for him to inherit a right in cash securities or other movable property. That is why this Bill has given preference to the Dayabhaga system of law rather than the Mitakshra system of law; not because it had any disrespect to the twenty crores who are under the Mitakshra law, nor because it had any special preference to the Dayabhaga system of law. Today, the right of inheritance by birth and right of survivorship have become archaic and impractical institutions.

Pandit Lakshmi Kanta Maitra: Primitive.

The Honourable Shri K. Santhanam: Either we drop them deliberately through legislation or they will be discontinued in an irregular and disorderly fashion.

Pandit Lakshmi Kanta Maitra: Follow Bengal in other respects also.

Some Honourable Members: Order, order.

Sjt. Rohini Kumar Chaudhuri: On a point of order, Sir, what right has a Member to call 'order, order'. I find Shrimati Durgabai calling 'order, order'.

Shrimati Renuka Ray (West Bengal: General): Is this a point of order?

Mr. Deputy-Speaker: I am extremely glad to find that hon. Members are sharing the right of the Speaker along with me.

Sjt. Rohini Kumar Chaudhuri: (rose).

The Honourable Shri K. Santhanam: I am afraid I shall not be able to give way to my hon. friend from Assam.

Sjt. Rohini Kumar Chaudhuri: All right; I shall keep quiet. If you want to suffer from the tyranny of women, you suffer.

Mr. Deputy-Speaker: Order, order.

The Honourable Shri K. Santhanam: Sir, much has been said about the so-called sacred institution of joint family. In the mediæval and ancient times, this so-called joint family might have served a very useful purpose. It is not my business to deny that. But, today, joint family exists only in controversy. I know the peasants; I have been in the rural areas probably much longer than many of you. I have worked for ten years continuously in the rural areas. I know, Sir, the first thing, when a peasant's son marries, the peasant does is, to set up a new house, give the son his share in the ancestral land, one acre or half an acre or one-quarter of an acre, and establishes the son as a separate family. Unless this is done, the peasant knows that his family will be disintegrated. In the case of certain very rich people, the so-called joint family may continue with a double system of account keeping for certain purposes, to cheat the Income-tax and for other purposes. Ordinarily, even today, in the middle class families, what happens? One son lives in the village; another son is in Delhi in service in the Government of India; another son is in Madras in some other service; another son does business. What is the meaning of maintaining a joint family and ancestral property? It is better that they are allowed to partition. Then, if they want voluntarily to come back and live together, let them become a co-operative society, let them become any kind of legal personality suited to modern conditions. To continue the joint family owing to ancestral worship, without regard to the existing circumstances, I think it is sheer conservatism run mad.

Shri Brajeshwar Prasad (Bihar: General): A Daniel come to judgment.

The Honourable Shri K. Santhanam: My hon. friend from Bihar is a supreme example of Daniel as he has proved in the constitution making, and I am sure he will prove himself so here.

Shri Brajeshwar Prasad: You are also.

The Honourable Shri K. Santhanam: I am not giving way.

Mr. Deputy-Speaker: Let there be no talk across the table: I am exceedingly sorry; I have been a little indulgent. I find an acrimonious

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controversy is carried on. So long as there is good humour there is no harm. However, the hon. Member must be allowed to go on. He may lose the trend of his thought. Otherwise also it is inconvenient to go on being harassed.

Sjt. Rohini Kumar Chaudhuri: Mr. Santhanam is in a very good mood.

The Honourable Shri K. Santhanam: Because my case is simple and straightforward and I need not get into a bad temper or raise all kinds of fantastic bogeys.

Let me now come to the next aspect, that is, rationalisation. One point which has evoked the greatest amount of opposition is the daughter's right to the father's property. If the old property had remained intact and if property consisted only of agricultural lands, then I can sympathise with those who say that to bring in a foreigner, an outsider into the family may mean a great deal of inconvenience. I have already stated that property is moving from immovable property to movable.

Dr. P. S. Deshmukh (C.P. and Berar: General): How can it? All landed property cannot be dissolved. The Hindu Code Bill will not evaporate lands.

The Honourable Shri K. Santhanam: So far as the peasant community is concerned, they automatically divide on marriage. If a son-in-law is willing to come and live in the village, I do not see why he should not be allowed.

Dr. P. S. Deshmukh: Hereafter, the rule will be divide and rule.

The Honourable Shri K. Santhanam: If the sons can divide, the daughter also can divide. In the future property will consist of cash securities and other things. Therefore, there is no reason why the daughter should not have the same right as the son. As a matter of adjustment, I am prepared to throw out one or two ideas. In estimating the share of the married daughters in a family, I think it would not be unfair to set off any amounts which may have been spent for their marriage. In many of the middle class families, the amount spent for the marriages is often equal to if not greater than the share which the daughter may get. I think that would be a fair set off. Similarly, if there is only one dwelling house or if there is only a small extent of agricultural land, I think it will not be unfair to say that so far as the daughter's share is concerned, she must take her share in the form of cash or other movable property rather than insist on a partition of the house or the immovable property.

Ch. Ranbir Singh (East Punjab: General): Wherefrom to bring that cash?

The Honourable Shri K. Santhanam: If you have a creditor, where will you find the cash? Is it not possible? It may be paid in easy annuities or in some such manner. In a harmonious family, adjustment will be easy; in an unharmonious family, courts can find ways and means of adjusting the burden without inequity to any party. Subject to these adjustments, I do not see any rational justification why the daughter should not be treated exactly on the same basis as a son. I do not think there will be any kind of hardship. All kinds of bogeys have been raised. After all the daughter becomes a daughter-in-law. If the daughter gets a share, similarly the daughter in the other house gets a share and therefore in the long run, except for an adjustment of legal rights through the establishment of self respect and social equality between man and woman, the property arrangements will remain much the same; because at present the daughter does not take away from the father's

house; she gets more in her father-in-law's house. Hereafter, under the Bill, she will take a little from the father's house, much less from the father-in-law's house. In the long run, there will not be much difference in the distribution of property. Only the process will be more satisfactory, and more self-respecting to all the parties concerned. The daughter will feel that she is as good as a brother; that is all. I think that that is a feeling which we ought to encourage in this country. We have removed all social inequalities in politics; we have given the women the same equal franchise as men. Why in point of inheritance and succession alone should we have any kind of stigma based on sex? I think the sooner we voluntarily give it up, the greater will be the strength of the country. Otherwise, some day or other, on account of the adult franchise, there will be such a vast volume of feeling among the women all over the country that would compel us to make the change. Then, it would be a disgrace to the men of India. It is better you do it now in advance of adult franchise so that we can go to the probably five or six crores of women who will be voters and say, 'look here, we have done the right thing before you wanted it; we have given you the votes; we have given you property rights; you are equal to men; let there be no more sex conflicts.'

The last point I have to deal with is the question of reform. It is in the field of marriage there is any real attempt at reform. It is partly 3 P.M. permissive and partly compulsory. The one compulsion is monogamy.

I want all my friends and Members of this House to stand up and say whether they approve this reform or not. They have been very prudently silent on this subject and in spite of speaking for three hours, I don't see why people avoid this subject. Do they want to establish monogamy or not?

Pandit Lakshmi Kanta Maitra: Monogamy is already established.

The Honourable Shri K. Santhanam: Some people actually enjoy the luxury of two or more wives, others enjoy mentally the possibility of more wives!

Shri H. V. Kamath: What about polyandry?

The Honourable Shri K. Santhanam: Therefore I say this that this is one thing in which the old Aryan tradition had made a profound mistake. It is time that we who consider ourselves to be the glorious descendants of the great Aryans now confess that it was a mistake and correct it rather voluntarily and unanimously. This polygamy must go. But complete and absolute monogamy will also become a legal fiction unless you provide reasonable facilities for divorce in very hard cases. Unless we provide such an outlet, it will bring evil.

Sjt. Rohini Kumar Chaudhuri: Do you agree for the women being prosecuted for adultery?

The Honourable Shri K. Santhanam: I agree to women being subjected to same penalties for the same crimes but probably my hon. friend from Assam has a soft corner for that subject. Monogamy and divorce provisions go together. They must be taken as one co-ordinated law and in this respect this Bill does propose a reform which is not sanctioned by the Shastras but this is a reform . . .

Pandit Govind Malaviya (U.P.: General): Do I understand that the hon. Member will oppose monogamy also if divorce is not sanctioned?

The Honourable Shri K. Santhanam: I will support monogamy in any case but I will support it in a rational form rather than in an irrational form. If

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my friend wants monogamy and at the same time that wherever a husband is impotent or a criminal, there should be no divorce or *vice versa*, then I think he wants monogamy in an irrational form. I want it in a rational form. That is the difference between us.

I will just touch one other aspect. One other great merit of this Bill is it takes away all legal sanction from the caste system. We abolished untouchability in the Constitution. Now we take the social reform further and take away all legal sanction for caste. Here in this Bill whether it is for marriage or for any other purpose, all Hindus from the so-called Untouchables up to the so-called Acharya Brahmins—all of them are one.

Some Honourable Members: Without a caste, who is a Hindu?

The Honourable Shri K. Santhanam: My friend asks "Without a caste, who is a Hindu?" With the caste. I think, Hindu is a monster according to me. (*Hear, hear*). In this country we want to establish a Hindu Community without caste. Either we cease to be Hindus altogether or we establish Hinduism without caste. There is no alternative left for us.

Shri Lakshminarayan Sahu: Mohammadans also can be called Hindus.

The Honourable Shri K. Santhanam: On the day the Muslims accept the Gita and Vedanta, I am prepared to embrace them as Hindus.

Shri M. Tirumala Rao: Even Gita refers to caste.

Mr. Deputy-Speaker: Let there be less of this cross talk. The hon. Member may go on. Each one is trying to persuade the other.

The Honourable Shri K. Santhanam: In spite of interruptions I am going to convince some of my friends. My friend Mr. Tirumala Rao says that I am swearing by the Gita. What I am saying is they form the minimum article of faith for all the Hindus. Therefore if after this Bill there are no distinctions between Hindus, Muslims and Christians, then it is better for the whole country. We are not proud of keeping alive distinctions which have no meaning or which are irrational. If Muslims also remove all such distinctions which are irrational; if Christians remove all distinctions which are irrational, we shall before long meet on a plane in which we are all one—whatever we may call ourselves. Meanwhile our object both in the Constitution and in this Bill is to see that the majority community in this country are strong, united and have shed all prejudices and practices which have divided it into sects and will become an invincible foundation on which the glory and strength of future India can be built. I am sure that without this Bill and without the changes the Bill advocates, the Hindu community will be a weak, torn and unprogressive community and if the majority of the people continue in that condition we cannot make much of the political and other economic opportunities which the Constitution and God have given us. Therefore I have said this is really complementary to the Constitution which we have enacted and it is in the supreme fitness of things that the same body which enacted the Constitution will also be enacting this Hindu Code into Law. I hope it will be put on the Statute Book and our descendants will say that these people not only enacted the Constitution but also reformed the Hindu law.

Pandit Lakshmi Kanta Maitra: Destroyed the Constitution!

The Honourable Shri K. Santhanam: I believe our ancestors are watching and are blessing us for this.

Shri Loknath Misra: On a point of information. My friend has just now sworn by the Vedanta and the Bhagvad Gita. Is he prepared to reject any provision that will go against the tenets of these?

The Honourable Shri K. Santhanam: If they are based on wrong premises, I am bound to reject them.

Mr. Deputy-Speaker: It is unnecessary to carry on this argument.

The Honourable Shri K. Santhanam: Sir, I do not want to tire the House. I have dealt with the main points which came to my mind. I wish to appeal to those who by ancient prejudice have come to feel that it is their duty to oppose the Bill to reconsider their attitude, to have another vision—the vision of a Hindu community without caste, without distinctions, all pulling as one man. If we could convert the present disintegrated, weak and for a thousand years servile Hindu community into a very strong, healthy and great community, we would have done a work which our sons and grandsons will be proud of.

Shri H. V. Pataskar (Bombay: General): Sir, we are considering a Bill which is going to revolutionise the structure of the Hindu society. That society comprises more than about 25 crores of people at the present time. It is therefore not unnatural that even the common man has begun to take interest in what is happening and it is best in the interests of all sides, to take into account the fact that when we are revolutionising by this Bill the whole structure of Hindu society, it is not desirable that we should ignore the feelings that have been roused in the common man with respect to the provisions contained in the Bill.

The common man is at the present moment ill-equipped with education. He is worried with the problem of feeding himself and his dependents. He is faced with scarcity of clothing, for want of funds if for nothing else, and he generally finds life so difficult. Even then he has begun to take interest in this legislation because he thinks that this Bill is going to affect the structure of his Hindu society, which is the growth and product of several centuries past. Therefore it is that we must first educate him before we undertake the serious task of changing the whole structure of the society to which he belongs. I will make it first clear that I am not opposed to many of the provisions of the Bill but the time selected for the purpose, to my mind, is most inopportune. I propose to take only 20 minutes and if I am allowed to make my remarks without interruptions I will be able to finish it within that time, because I am aware that there are many members of this House who are interested either on one side or the other and who want to take part in the debate.

The common man, so far as I have been able to understand his reactions to the Bill, thinks that at present the attention of the Government should be concentrated on the problems which affect him in the matter of his food, clothing, inflation and several other things. When he is worried about his day to day needs and what he requires for his sustenance he naturally asks why are the Government interested in what form his marriage should be, whether he should have one wife or more, when he cannot even sustain one. All these things may be necessary and I am not opposed to reform. It has been admitted and our leaders are also saying it that we are passing through very critical times. We know the difficulties of the people. There is scarcity of food, clothing and the other necessities of life. Compared to the common man we are living here a comfortable life. He naturally thinks that what the leaders should concentrate upon is more the solution of his day to day problems than the problems relating to marriage, inheritance, etc. These things have been there for centuries past and it would not matter if they go on in the same way for some more months or even years.

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If our sisters who are enthusiastic about the Bill or our other friends who are clamouring for the immediate codification and amendment of the Hindu Law, if they approach the common man in the rural areas, they will find that he is so much worried about so many other things that he is surprised why at this moment you should rush a measure of this sort through in this House. He naturally thinks that this should be stayed for the time being. There is quite a lot of discontent in the country. On account of the partition there is the problem of the refugees who have to be settled and sheltered. At this moment is it necessary to interest ourselves so intently on this question, as to what form our marriages should be? The time chosen for rushing the Bill through is not very opportune and it is likely to add to the difficulties of the situation rather than do otherwise.

What are the subjects dealt with under this Code? Marriage, Inheritance and Adoption. So far as marriage is concerned there is even now the Civil Marriage Act, under which those that do not want to marry in the orthodox way can marry. Many people are as a matter of fact doing it. Therefore this measure does not look so urgent as made out.

An Honourable Member: Under that Act you have to say that you do not belong to any religion.

Shri H. V. Pataskar: That is gone my dear friend; it is dead and gone, long past. Under the Civil Marriage Act any two Hindus belonging to any caste or community, without making a declaration that they do not belong to any religion, can get married and there is nothing to prevent them from doing so.

There is much agitation with respect to the question of inheritance. We have laid down the equality of the sexes as a principle in our Constitution and in these days it is not possible for anyone to go back upon it. The objection raised is not with regard to the equality of the sexes. A father who has a son and a daughter loves them both equally and there cannot be any difference. But so far as inheritance is concerned it has to be looked at from a different point of view. For that you have to look at the development of the present structure of our society. This structure has been evolved through a process of evolution during the last many centuries. Hinduism is not a religion in the sense in which Christianity is a religion, Zoroastrianism is a religion or Islam is a religion....

An Honourable Member: What is religion then?

Shri H. V. Pataskar: Christianity is the religion of those who believe in Christ and follow his teachings in the Bible. The Zoroastrians are the followers of Zoroaster and Islam is the religion of those who believe in Mohammad the Prophet and the Koran as their sacred book. But what is Hinduism? Hinduism includes not only the followers of the Vedas or the followers of Rama and Krishna or Shiva or of the innumerable gods in various shapes and forms but it also includes those who worship nature and those who do not believe in any God whatsoever and those who do not believe in the oneness of God also. Their places of worship, methods of worship and objects of worship are all varied. Hinduism is a growth which has absorbed all the different currents and streams of social and religious beliefs and practices prevailing over several centuries. It is an all-embracing faith consistent with the ideal of *कृषन्तो वि श्व-मार्यम्*. Hinduism at present is a growth which has contrived to combine in it all these various streams of life. At present Hinduism may be a cast-iron system, but it has not always been so. Our religion is based not on the tenets of one

particular man or of one particular book, but it based on what is *dharma*, and *धर्म* means *धारयते अने न इति धर्मः* or *धारणात् धर्मः इत्याहुः*. *Dharma* is that which sustains society. That is the ideal on which our Hindu society is built, namely that which is necessary for the sustenance and advancement of society. Of course I do admit that the present state of Hindu society is not a very happy one. But it has not been all along so. Therefore I take you to this point because it will give you an idea as to why there is objection to this Bill. That which sustains society is religion and sustenance of the society is our ideal. Our society may appear stagnant at present, but it is not, has not been really so. Hinduism has undergone vast changes in the course of its evolution. I am not afraid of changes. It has undergone several changes in the past. At one time Buddhism was flourishing in this land and engulfed not only Bharat Varsha but it spread to far off countries beyond Bharat Varsha. But today there are very few Buddhists to be found here. What has happened to them? They have been absorbed in Hinduism, they have undergone a metamorphosis, and we of the present generation are their descendants. That shows that we are not a stagnant race and that we have adapted ourselves to the changing needs of society. I for one be changed. That is not the real nature of Hinduism. And I am not one of those who say that what we now call Hindu Law should not be changed. Our Law has in fact undergone changes even during the period of the British domination.

The previous speaker, the hon. Mr. Santhanam, rightly referred to the fact that judicial interpretations by courts which were not conversant with the original tenets of various laws regarding inheritance, adoption and marriage have not only changed the course of our social and economic life but have created many anomalies also. It has certainly become desirable to remove those anomalies and bring our Law in conformity with the changing needs of society. The world is changing fast and we cannot but be affected by what is happening elsewhere. We do not wish to say that we will keep ourselves away from the rest of the world. That is not the idea. But the codification of the Law is one thing and amendment of it is another. This Bill seeks to do two things. We want to codify the law and amend its provisions. So far as codification is concerned, I understand it means that we want to remove the anomalies. At the present moment we have got so many systems of law prevalent. There is Dayabhaga in certain parts, there is Mitakshara in certain other parts, and the Bombay school has its own distinctive features. And there is what is called Marumakkattayam in certain parts of South India. But the areas where they are prevalent have also become well-defined, and there is a certain amount of stability. Therefore, if we proceed first with the task of codifying the law as it stands at present in these well-defined areas, that itself will not only bring about uniformity but it will also lead to a process of amendment at a later stage. Mere codification of the law as it stands will also not evoke much controversy, because that is the existing law. Irrespective of the question that it has been modified by the courts consisting of British judges, there is a certain stability about it. Therefore, if we only confine ourselves to codification I think much of the opposition that we see at the present moment will not be there. Not only that. If we do the codification only we will secure the good-will of the people and I believe that it will facilitate the amendment of the Hindu Code for certain other matters and by gradual stages subsequently. But the amendment of the existing law in the way it is tried to be done is another matter. Codification and amendment of the law have been hanging fire for the last so many years. In my view if we had proceeded with the codification only as a first step, the law would have been codified long ago. Ever since the Rau Committee was appointed, evidence was taken and so many Reports and so many Bills were formulated. But they tried to do two things simultaneously, namely, codification as well as amendment. Naturally, both have

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remained unfulfilled. If they had confined themselves to codification only, it would have been done long back and the stage would now have been reached for amendment. That is my view of the matter.

The present Bill deals, as I said, with three distinct matters, namely marriage, inheritance and succession. Let us see what the basic idea of our society is. With the impact of modern ideas, modern education and modern methods of life the question of equality of sexes has naturally been agitating the minds of people, particularly of the educated women of the country. We have also accepted that equality in our Constitution. So, superficially looked at, it strikes one as to why there should be any difference between a son and a daughter in the matter of inheritance. But the question is not such a simple one. A father's desire for the well-being of a son or daughter cannot be different. Naturally his love and affection is bound to be equal. No sensible man can think that the son should get everything and the daughter nothing. In fact that has not happened. Reference was made that even in the middle-class families,—leave aside the rich, they are very few in number—the father spends much more on the marriage of the daughter than what his son could ever hope of getting, in many cases even at the cost of the education of his sons. I say 'in many cases'. That is my reading of the matter. Why then is there opposition in regard to inheritance? Even the Sanatanist loves his daughter as much as his son. We cannot say that Sanatanists make a difference in this respect. The opposition is due to an important factor for considering which we must look to the whole structure of our Hindu society.

A reference was made by my hon. friend Pandit Mukut Bihari Lal Bhargava in this respect. I would like to elaborate that point a little in as short a time as I can. The whole structure of our Hindu society is evolved through centuries and centuries of time. In the structure of our society the basic unit is the family. And on the continuity of that family as a unit rested naturally the stability of our society. It is not based on an individual as unit, but more or less the basis of the whole structure is the family as a unit. And the continuity of the family was naturally the main object with which all our laws and customs have been evolved from time to time. The pivot therefore was the continuity of the family which was the unit of the structure. Daughters naturally by marriage pass into a different family while the sons remain in the family to continue it. To foster the continuity and to prevent its being broken up the joint family system was evolved. Why was the joint family system a peculiar feature of Hindu society? Because Hindu society is based on the continuity of the family. That is why the joint family system is a peculiar institution of Hindu law not known to other systems of law which are more or less based on individuals. Till only a generation or two back the joint family system worked well. It has maintained the continuity and stability of our social structure for centuries past. That is why there is objection to the throwing open of inheritance to the daughter. That objection is not for political or social reasons but because if you open the inheritance to a daughter the result is that the whole social structure based on the joint family system will be broken.

The trend in the modern world is towards individualism. The joint family system is cracking in many places. I would go to the length of saying that the joint family system would not continue for all time under modern conditions. But as it is there, the question is whether we shall gradually replace it by the individual as the basis of our society or whether we shall break it up by law as is proposed to be done by this measure. If we want to break up the Hindu society suddenly, then I am afraid we shall be rocking and shaking the foundations of that society which may result in consequences unforeseen and unpredictable. The danger involved is not the mere opening of inheritance to daughters but the fact that by that opening up of inheritance the whole basis of society

is involved. Hence the opposition. If only we try by an evolutionary process to help in the process of disintegration of the family which has already started owing to various economic and social causes, the same results as are aimed at will be achieved but not suddenly and abruptly. There is a clause in the Bill which says clearly that from the date of the commencement of the Code the whole joint family system as such will disappear. You are trying to do it suddenly and to my mind that is sure to rock the very foundations of the society which has been based for centuries past on the joint family as a unit of society. I would appeal to my enthusiastic reformer friends that while I am one with them, that this system no doubt has to be changed, and that as the world stands today no one will be able to resist it for too long, while that is so the question is whether we shall do it gradually, whether we shall carry the people with us and go as far as they come with us, or as far as we can drag them with us, or on the other hand whether we shall suddenly, by a stroke of the pen and by legislation, say that all this joint family system is destroyed. Even in these days when owing to abnormal circumstances people are worried by so many problems, this question is attracting their attention and therefore any abrupt action is likely to result in a state of affairs which is desirable neither to the reformers nor to the others. I agree we can't remain stagnant. The Hindu society has undergone so many changes in the past but by a different process altogether. If we try to force the events which must happen gradually, I am sure the result is not going to be very happy.

Sir, I am surprised at one thing. Here we are trying to preserve adoption. I don't know for what purpose. Adoption is a thing which is peculiar to Hindu law. In other societies also children are adopted but not for the purpose of continuing the family, only to satisfy the natural craving in any human being to have children and to rear them. I am told that in America and England also people do adopt children but there the object of adoption is different. The adoption as envisaged in the present system of Hindu law is peculiar and it is so because the Hindu structure of the joint family is based on the continuity of that joint family. But after the break up of the joint family in the way you are trying to do by this legislation, what is the necessity for making a provision for adoption? Look at it from a different view. Why was adoption a peculiar feature of Hindu society? Because the main feature of the Hindu society was the basis of the joint family and its continuity required adoption. With the breaking up of the joint family and the coming of individualism, I don't see why we should waste our time on trying to preserve adoption. I am certainly against adoption. Even in the case of adoptions that now take place, 99 cases out of 100 result in litigation in courts because the whole idea has undergone a change. The widow adopts a child thinking that the boy adopted might be useful to her in managing her property and affairs free of charge. The boy thinks that by adoption he will get something from the person who adopts him for nothing. So, at present adoption takes place purely from a motive of self-interest; adoption as conceived in the olden days is disappearing. As a lawyer of some standing and experience, I have found that in 99 out of 100 cases of adoption the result has been litigation because the original idea underlying adoption has undergone a change. But now with the coming into force of the provisions of this Bill the whole joint family system will disappear, the individualistic society as in other parts of the world will come and it is therefore not necessary to make any provision regarding adoption. It would be confusing to do so.* If we are consistent and logical in what we are doing, we should do away with adoptions altogether.

I have now to refer to marriage and divorce. A point was raised by the hon. member Mr. Santhanam who asked everyone whether they were against or in favour of monogamy. I would say that monogamy is absolutely necessary in these days. I don't think there is any member in this House who is opposed

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to it. But is the Hindu Code Bill necessary for that purpose? We have got a measure in the Bombay Province by which, so far as that Province is concerned, there is monogamy and as a natural corollary to it divorce in certain cases is allowed. We have not gone further than that measure in these matters. If the only object is to ordain monogamy then I say there can be no objection to it for apart from ideological reasons there are practical reasons also in its favour. Nobody now wants to have more than one wife. There are very few excepting a few millionaires and multi-millionaires who can afford to have that luxury; others can't have it. It is not even a mental luxury as suggested by the hon. Mr. Santhanam for the simple reason that one cannot manage without anxiety even with one wife and her children. What mental luxury can a man derive by the idea of being able to marry another wife under these circumstances? As a matter of fact, it is quite a simple proposition and I think both sides would agree that monogamy must be the rule.

But let us not try to confuse the real issue regarding divorce. As soon as you have monogamy the result is that supposing one of the mates is a leper you have to make arrangements to see that the other is relieved from that liability or else you will be denying him the conjugal right. In some respects divorce is a corollary of monogamy. Even Manu, the great law giver, has provided for such cases.

नष्टे मृते प्रव्रजिते क्लीबे च पतिते पतौ पंचत्सु आपत्सु सुनारीणा पतिरन्यो विधीयते ।

But the main point so far I am concerned is that whether you lay down monogamy by law or not it is going to be the rule with at least 9,999 out of 10,000 people. So that question need not agitate our minds at all. Sir, apart from all these considerations, there is one last point. A uniform Civil Code must be our endeavour according to article 44 of the Constitution which we have already passed. We have incorporated a Directive Principle in our Constitution that the State shall endeavour to secure a uniform Civil Code throughout the territory of India. I would like you seriously to consider whether by enacting a measure like this only for the Hindus we are advancing the cause of our progress towards that ideal. I should think that we are going backward rather than forward. My hon. friend Mr. Santhanam seemed to think that after the passing of that article 44, we are trying to progress towards that ideal by this measure intended to weld Hindus into one. It may or it may not be so. What is to be welded in the interests of the security of our nation is not the welding of Hindus alone but all the citizens of this country. All the inhabitants of India should be welded into one. Marriage, inheritance etc. form part of civil codes of all the countries world over. They must do so in India also. That Code should apply to all citizens whether they be Hindus, Christians or Parsis or Muslims. From that point of view, we are going exactly in the opposite direction. I tell you why. The shibboleth of no interference in religious or semi-religious matters was the creation of a foreign government. It was imposed upon us in their interests and not in our interests. What is there today to prevent us from including all these things in a uniform Civil Code? The present Hindu Code was conceived under different circumstances, and at a time when there was no ideal of having a uniform Civil Code. But since then, things have changed enormously and especially after Pakistan, it should be our endeavour to bring closer all the different elements in the country, be they Hindus, Christians, Muslims or Parsis. I do not want that anything should be done for Hindus alone in such matters. We have already decided upon joint elections for welding all the people of our country into one. One uniform Civil Code will further bring all the people together. That is the process which we must follow and which demands the attention and interest of all of us. We must give up this idea that we cannot interfere in the laws of inheritance and other social matters of persons

belonging to other religions. That idea must go. At the present moment, instead of building one well-knit society, we want to stick to the old thing which was conceived at a time when the aim was to keep us apart. Now the idea is different. The security and well-being of our people demands the enactment of a uniform Civil Code. I do not care whether I offend the susceptibilities of some orthodox friends when I say this, but I am quite frank and open. If things are to be done, they must be done in the right way. We cannot partly stick to the old things and partly bring in new things. In this connection, I can mention that a uniform Civil Code is in operation in Goa. The Law Minister himself probably knows that. The laws of inheritance etc. are applicable to Christians, Hindus, Muslims and everybody alike in that part of India under the Portuguese. If that is so, why should we be afraid? Our fear is the result of what we have inherited from the past—this shibboleth, I said, of non-interference in religious or semi-religious matters. But that was done by the British for their own purposes, because they wanted to keep us apart. Now our ideal is to unite all our people in the nation. What we ought to do is instead of proceeding with a Bill of this nature, our Law Minister should, immediately after the 26th of January 1950, bring forward a uniform Civil Code applicable to all people throughout India. I know my enthusiastic sister Members thought when I rose to speak that I was an opponent of this Bill. Let me hasten to add that I am entirely for equality and all those things. But this is not the way in which we should do it, by destroying one thing and creating difficulties in another. For the sake of a uniform Civil Code, we can go and tell our Hindu friends that the joint Hindu family must go, that it is necessary in the interests of the nation. But what we are doing is in the opposite direction. I am afraid it will lead to very undesirable and unforeseen consequences. I will just cite an example. In Ahmadnagar City in Bombay province, a young Hindu widow wanted to marry a Muslim. I do not know whether it was a love affair or what it was. But she wanted to marry a Muslim. As you know, those days we were passing through critical times. There was a lot of trouble. There were riots and some lives were lost. So this Muslim gentleman got afraid not only for the sake of his own safety but the safety of his community. He said I do not want to marry or do anything of the kind. She could not marry without conversion to Islam as the Muslim gentleman had already wife and children. She could marry only if she converted herself into a Muslim. In the Province of Bombay we have also enacted a measure which prevents a Hindu from marrying more than one wife at a time but does not prevent Muslims from doing so. By the present Bill also you are giving the exclusive right to a Muslim to have as many wives as he likes or at any rate up to four. Now what happens is, if a man,—a very wealthy man—wants to marry another wife, he can get himself converted into a Muslim and he can have as many wives as he likes. Considered from all points of view, the interests of our country demand that hereafter at any rate we should strive to achieve a uniform Civil Code for all people. That is what is happening all over the world. As I pointed out before, such a code exists even in a Portuguese territory in India viz. Goa. The present Hindu Code is an artificially engineered device of the former rulers, when they tried to keep us apart. We must try to get out of that rut. We must endeavour to form a well-knit, uniform society. We want to form a single State, not based on religious tenets, whether they be Hindu or Muslim or any other, but a truly secular State. For this a uniform Civil Code is absolutely necessary. I therefore suggest that this Bill should not be proceeded with. It will serve no purpose. Therefore, I appeal to my hon. friend the Law Minister to withdraw this Bill, bring forward a uniform Civil Code regarding the matters covered by this Bill applicable to all citizens alike whether they are Hindus, Christians, Muslims, Parsis, Jews or others.

श्री राम सराव : उपाध्यक्ष महोदय, जब यह बिल सेलेक्ट कमेटी को जा रहा था, उस वक़्त मैंने इस बिल का स्वागत करते हुये सेलेक्ट कमेटी के सदस्यों से

[श्री राम सहाय]

यह निवेदन किया था कि इसमें कुछ बातें ऐसी हैं जो आज कल की हमारी मौजूदा संस्कृति और सभ्यता के विरुद्ध हैं, उन पर विचार किया जाय। लेकिन मैंने यह देखा कि उस पर कोई खास तवज्जह नहीं की गई। अभी कल हमको ऐसा मालूम हुआ है कि इस सम्बन्ध में एक कमेटी फिर बनने जा रही है। इसी वजह से मैं हाउस का कुछ समय लेने के लिये खड़ा हुआ हूँ। मैं इस बिल के विरुद्ध नहीं हूँ, मैं चाहता हूँ कि इसमें कुछ ऐसे सुधार हो जायें कि जिसमें दूसरे लोग जो इसके अपोजीशन (opposition) में हैं उनका ख्याल कुछ मिल जाय। यही कारण है कि मैं इस हाउस के कुछ मिनट का समय लेने के लिये खड़ा हुआ हूँ।

मेरा निवेदन यह है कि अभी मिस्टर सन्थानम ने कहा है कि हम इस बिल के द्वारा जातपात को तोड़ कर एक जगह इकट्ठा होने जा रहे हैं। मैं मानता हूँ कि इस तरह का ख्याल और इस तरह का बिल हमारा स्वागत पा सकता है और उसको अवश्य ही पाना चाहिये। अगर हम जातपात तोड़ कर शादी विवाह कर सकें, अडाप्शन (adoption) कर सकें, और एक दूसरे के साथ इस तरह का सम्बन्ध कर सकें जैसा कि कुटुम्ब में होता है, तो मैं समझता हूँ कि इसमें किसी को भी इन्कार नहीं करना चाहिये। मगर मेरे दिमाग में जो इस के बारे में थोड़ी सी डिफिकल्टी (difficulty) महसूस हो रही है वह मैं हाउस के सामने रख देना चाहता हूँ, और वह सक्सेशन (succession) के सम्बन्ध में है। गो कई जगह लड़कियों को उत्तराधिकार देने का रिवाज है और उनको उत्तराधिकार दिया जाता है और कहीं कहीं हिन्दू सोसायटी (society) में वैसी प्रथा चल भी रही है। लेकिन आम तौर पर आज हिन्दू समाज में जो व्यवस्था है उसको देखते हुये मैं यह समझता हूँ और मुझे ऐसा प्रतीत होता है कि यह कोई अच्छी चीज नहीं होगी। इस कारण से नहीं कि मैं यह नहीं चाहता कि पुत्रियों को कोई हक नहीं मिलना चाहिये या स्त्रियों को समान अधिकार नहीं होना चाहिये और उनके साथ किसी दूसरे किस्म का व्यवहार होना चाहिये। नहीं, मेरा हरगिज ऐसा मकसद नहीं है। मुझे सन्देह यह है कि जिस व्यवस्था में हम रह रहे हैं और अरसे से जिस व्यवस्था को हम फालो (follow) कर रहे हैं उसमें उपयुक्त तरीके से इसको कार्यान्वित किया जा सकेगा या नहीं। मिसाल के तौर पर मैं आपके सामने उत्तराधिकार की बात कहना चाहता हूँ। लड़कियों को इसमें बराबर का हक दिया गया है। मुझे इसमें कोई आपत्ति नहीं है चाहे और भी ज्यादा हक दिया जाय। लेकिन जब इस तरह का सवाल पैदा होता है तो भविष्य में हमारे सामने क्या क्या दिक्कतें आ सकती हैं उनके ऊपर तो मैं हाउस के सामने कुछ निवेदन करना चाहता हूँ। आज इस जमाने में जो लड़कियों का स्थान है वह मैं समझता हूँ कि किसी दूसरे का हिन्दू समाज में नहीं है। हमने जाने अनजाने

इस व्यवस्था को बिगाड़ दिया और उसके ही प्रायश्चित्त स्वरूप हमको यह बिल लाना पड़ा यह हमारे दुर्भाग्य की बात ही हो सकती है। लेकिन फिर भी मैं यह कहूँगा कि आज हमें उसमें सुधार करने के लिये बहुत सी गुंजाइशें हैं। कोई भी हिन्दू पिता, मैं समझता हूँ, अपनी लड़की से भेदभाव नहीं करना चाहता। वह हमेशा अपनी लड़की को ज्यादा से ज्यादा देना चाहता है।

बाबु रामनारायण सिंह : बहुत ठीक है।

श्री राम सहाय : वह अपनी लड़की का ऐसी जगह सम्बन्ध करना चाहता है कि लड़की उससे ज्यादा अच्छे आदमी के घर जाय। मैं पिता की ही बात नहीं कहता। मैं तो कह सकता हूँ कि कोई भी हिन्दू भाई भी ऐसा नहीं हो सकता जो अपनी बहिन को अच्छे घराने में न देना चाहता हो। शायद हजारों लाखों में कोई एक मिसाल मिले जो इसका अपवाद हो। लेकिन मैं समझता हूँ कि शायद ऐसी मिसाल नहीं के बराबर मिलेगी। फिर हम नहीं समझते कि हमारे सामने यह मसला क्यों लाया जाता है कि लड़कियों को उत्तराधिकार में लड़कों के बराबर हक दिया जाय। मैं इस वजह से यह कह रहा हूँ कि हमारे मध्यम वर्ग के लोगों में जायदाद के बटवारे में भाइयों के बीच जो मुसीबतें पैदा होती हैं वह हमारे सामने हैं। लड़की को तो दूसरे खानदान में हिस्सा मिलता है। अब अगर वह भी अपने बाप की जायदाद में हिस्सा लेने की सोचेगी तो मैं समझता हूँ कि हमारी व्यवस्था में गड़बड़ी जरूर पड़ेगी। यही एक कारण है कि जिसकी वजह से मैं हाउस के सामने कुछ थोड़ा निवेदन करने के लिये खड़ा हुआ हूँ। मैं यह समझता हूँ कि इस किस्म की चीज के करने से भाई बहिन में जो प्रेम है उसमें कुछ फर्क जरूर पड़ेगा। जब भाई भाई में, जो कि एक ही खानदान में रहते हैं, जायदाद के बटवारे के कारण निफाक पैदा हो जाता है, फिर ऐसी सूरत में जब कि लड़की दूसरे परिवार में जायगी तो क्यों ज्यादा झगड़े नहीं होंगे। जब भाई भाई में, जिनमें स्नेह होता है, झगडा होता है तो जब लड़की दूसरे घर में जायगी उस घर में उस लड़की के सिवा कोई दूसरा आदमी ऐसा नहीं होगा जो उस स्नेह को कायम रख सके, बल्कि उसमें तो ऐसे लोग ही मिलेंगे जो इसको उभारेंगे और मुकदमें बाजी को मौका मिलेगा। जब इस चीज से हमारी व्यवस्था में इस तरह की खराबी पैदा होने का अन्देशा है, तो मैं नहीं समझता कि हमें ज्ञानबूझ कर ऐसी चीज को क्यों करना चाहिये।

इसी तरह मैं हिन्दू ज्वाइंट फैमिली के बारे में भी कुछ निवेदन करना चाहता हूँ और वह यह है कि जब हम मानते हैं कि हम कोआपरेटिव सोसाइटियां कायम करें, और हम कोआपरेशन के लिये लोगों को दावत देते हैं कि हम उस चीज को

[श्री राम सहाय]

अपने देश में फैलाये तो फिर ज्वाइंट फैमिली सिस्टम को जो कि कोआपरेशन के आधार पर कायम है, उसको मिटाने के लिये और उसको दूर करने के लिये क्यों फिक्र करनी चाहिये। मैं आपसे यह निवेदन करूंगा कि इन दोनों बातों को ध्यान में रखते हुये कुछ इस किस्म की व्यवस्था अवश्य होनी चाहिये कि जिससे दोनों पाइंट (points) मीट (meet) हो सकें। मैं समझता हूँ कि जो थोड़ी सी गड़बड़ी कुछ जनता में इस हिन्दू कोड बिल की वजह से हो रही है और इसमें जो कंट्रोवर्सल (controversial) पाइंट है वह विशेषतया सक्सेशन का ही है। उस सक्सेशन के पाइंट को अगर हम मीट कर सकें तो उस पर अच्छी तरह से विचार कर सकेंगे और हम जरूर इस कोड को एक मत से पास कर सकेंगे। मैं इस हाउस का ज्यादा समय न लेता हुआ इतना ही निवेदन करूंगा कि कमेटी के सदस्य जो आयन्दा उस कमेटी में बैठें वह इस दिक्कत को ध्यान में रखते हुये इस पर विचार करें, इस ख्याल से नहीं कि लड़की को पैतृक सम्पत्ति में हिस्सा नहीं मिलना चाहिये, बल्कि इस ख्याल से कि हमारी व्यवस्था में फर्क न आये।

मुझे एक आपत्ति और मालूम होती है। शायद मेरी समझ की भूल हो, लेकिन जहां तक मैंने शौर किया है उससे मालूम होता है कि अगर हम एक लड़की और एक लड़के को लें तो देखेंगे कि लड़के और लड़की दोनों को इसके अनुसार अपने माता पिता की जायदाद में हिस्सा मिलता है, लेकिन लड़की को माता पिता की जायदाद के अलावा अपने ससुर की जायदाद में भी हिस्सा मिलता है। मैं नहीं समझता कि यह असमान्यता रखने का क्या कारण हो सकता है। क्यों इस किस्म की व्यवस्था इसमें की गई है। इसको मैं नहीं समझ सका। हमारे ला मिनिस्टर साहब जब इस डिबेट को खत्म करें तो इस पर भी रोशनी डालें कि इस किस्म की चीज रखने का क्या कारण है।

मैं हाउस का ज्यादा वक्त न लेकर केवल इतना ही निवेदन करूंगा।

(Lish translation of the above speech)

Shri Ram Sahai (Madhya Bharat): Sir, while welcoming this Bill at the time it was being referred to the Select Committee, I had submitted that the Members of the Select Committee should consider some of its features which are at variance with the modern culture and civilization which we profess these days. But I note they have paid no particular attention to that. Only yesterday we have come to know that once more, a Committee is going to be set up in this connection. For this reason alone, I stand here to take a little time of the House. I am not opposed to this Bill. I seek only to bring in certain amendments which may accommodate to some extent the views of those who are opposed to it and that is the only consideration which has guided me to stand here to take a few minutes of the House.

The hon. Mr. Santhanam, I have to submit, had observed that through this Bill we were going to discard all caste distinctions and thus marching towards

integration. I agree that such an idea and a Bill of this type is worthy of our welcome and, as such, must be welcomed. In my opinion nobody need object if it becomes possible to have inter-caste marriages, adoption and develop other family relations with one another. But, in this regard, I feel a little difficulty which I intend to place before the House. This is over the succession issue. The custom of inheritance, no doubt, prevails and is practised at many places while in some a similar custom is being introduced in the Hindu Society. But considering its general set-up, it seems to me and I am of the opinion that ultimately this won't prove to be a good thing. My opinion is not based on any desire to withhold daughters' rights or deny equal rights to women and for the matter of that to treat them on a different footing. I emphatically disclaim any such motive. I doubt only if the idea can be made a workable one in a suitable way in the general set-up of our society in which we are living at present and which has been followed by us for so long. For instance, I want to say one word in connection with the right of inheritance. Herein share on equal basis has been conceded to daughters. I have no objection even if they are given a greater share. I want only to place before the House a few things in connection with some possible difficulties which may arise in future whenever such a problem comes up. At present girls enjoy a status in the Hindu Society which none else enjoys. Consciously or unconsciously we have tampered with the social regulations for the worse and now have to bring up this Bill as a repenting and a compensating measure. This is certainly our misfortune. Despite this I will assert that there is much scope left for reformation. To me no Hindu father can ever desire to mete out a prejudiced treatment to his daughter, rather he wishes to give away more and more to her.

Babu Ramnarayan Singh (Bihar: General): It is correct to a large extent.

Shri Ram Sahai: He wishes to marry her in the house of a man placed better than himself. Not to speak of the father only, I am in a position to assert that even no Hindu brother can desire not to marry his sister in a more fortunate family. There may be found an exception in thousands or lacs of cases. But I think that such an instance is almost non-existent. I fail to understand why then the issue of parity between sons and daughters in the matter of inheritance is made to confront us. I say so as we have before us the quarrels among the brothers over the division of property in the middle-class of our people. The daughter is given her share in the other family. But should she think of having a share in his father's property also; in my opinion it is certain to lead to disruption in our social structure. Out of this consideration I have come before the House to make these observations. In my opinion such a course is bound to impair the affection between a brother and sister to some extent. When disruption is possible among the brothers with a common family-link over the division of property, surely more serious quarrels will arise with daughter living in a different family. When such quarrels can arise among brothers who have a common bond of love in between themselves, there shall be none in the house where the daughter goes who can maintain that affectionate regard. There shall be, on the contrary, persons who will incite and thus pave way for litigation. I don't at all follow why we should take recourse to a thing having full consciousness of its being pregnant with possibilities of disruption of our social structure.

Likewise I would like to say something as regards the Hindu joint family. We have recognised to set up co-operative societies and invite people's co-operation to spread this idea in the country. Why then we are anxious to do away with the joint family system which is based on principle of co-operation. Keeping these two things in view there should be some such provision which can meet them both. In my opinion the reason for restlessness prevailing in some sections of the public and the provision that makes this measure controversial is

[Shri Ram Sahai]

mainly the issue of succession. If somehow we can meet the point of succession we can then proceed with its proper consideration and pass this Code unanimously. Taking no more time of the House, I will submit only that the Members who are likely to be appointed to the Committee should conduct their deliberations keeping this difficulty in view, not because a daughter should get no share in her father's property but to see that it does not disrupt our social system any way.

There is another point of controversy that strikes me. I may be wrong but so far as I have pondered, it seems to me that taking an individual case of a son and a daughter, whereas a son is entitled to a share in the property of his parents only according to this Bill, a daughter enjoys a share in her father-in-law's property as well. I do not see any reason for this disparity. I fail to understand why such a provision has been made therein. The hon. the Minister of law may kindly throw some light on this aspect while replying to the Debate as to what consideration has led for the inclusion of such a thing.

Taking no more time of the House, I will submit only this much.

Shri Krishna Chandra Sharma (U. P.: General): Sir, I have been very attentively listening to the debate. I have very great respect for the views expressed by my elders, particularly Pandit Thakur Das Bhargava and Pandit Lakshmi Kanta Maitra. I have been looking for support for their contention that the Hindu Code Bill interferes with our culture and civilisation and if it is placed on the Statute Book the whole fabric of our society will go down and there would be undue and improper interference with our religious institutions and our cultural background. To my misfortune I have not been able to find anything of that sort. There is nothing with regard to this Code which interferes with our religion in any matter whatsoever. Whether the Code is good or bad is another question. But the proposed Bill has nothing whatever to do with Hindu religion and as such if it is passed the Hindu religion remains as good or as bad as it is without it.

The second is the question of culture. The question is whether a house belongs to A or B. It may belong to Ramkumar and Krishnakumar, and if you just include Vimalkumari also, that is not going to affect Hindu culture. If you just include Vimalkumari also, that is not going to affect Hindu culture. If you include the whole fabric comes down, then it is a wrong thing that it has existed so long. I want my friends before interrupting me, to understand the basis of culture. No culture is culture unless it has any function with a view to the development and evolution of society. If culture is merely static, then it cannot last, and if Hindu culture had been static, it would never have been stable, and it would not have lasted so long. Culture must have some function connected with evolution, it must have something to do with a society as it is evolving. Let us understand this before crying that culture is in danger. Culture and religion and the present Hindu society or Hindu law and even the Hindu religion are not the same as they were in the Vedic times. Do you want us to believe that the Greeks came here and the Romans came here, their penetrations were there and yet we remained blindly static? Had we no heart, no mind and no receptivity whatsoever? Because of the receptivity and ability to evolve, the greatness has been preserved; if we had not this receptivity, we would not have existed so long. That is my rep'y. So I say, let us take a rational course, take an intelligent view of the thing, a scientific view of the thing. Hindu law as it was in the *Smriti* was only a codification of the customs and usages prevailing before the *Smriti* writers came. There are lots of *Smritis* and they differ on various points and on the same point different writers have different views. And the Privy Council has said that even if they differ from each other, their commentary is to be accepted, not because it is based on the *Smriti*, not because it is based on truth, not because it has come down from the Vedas.

but because if it is recorded in the *Smriti*, it must have been the usage or custom of the time before the *Smriti*. According to the view of Hindu law, a custom overrides the written law, the written text of law. Now, taking this view, I ask you seriously whether this is any question of religion, whether it is a question of culture, whether Hindu society will fall down by including Vimala along with Ramkumar and Krishnakumar? Therefore, do not bring in religion in this question. Do not bring in culture, do not bring in other things and say that Hindu society will fall down. I say Hindu society has never been so weak, Hindu culture has never been so weak, nor Hindu religion, that it will fall down, if this Act or that Act is passed. It is too strong for that.

And then again, it is not our claim alone that we have come from God. There have been six great civilisations and every great civilisation claims that it has come from God. The Muslims say it, the Christians say it, the Japanese said "I am the son of God". The Chinese Emperor wrote in 1559 to George the III a letter that the Chinese potentate comes from God and his territory shall have nothing to do with English commerce or be tainted by foreigners. But forty-nine years later there was a war by the Englishman upon China and the former accepted the opium dealer. Where had the land of the son of God gone then? Where was that son of God when there was the cannon mouth of the Englishman? Even the Englishman claims such things, that it is the whiteman's burden that he has been sent to Africa and India to civilize other human beings; that he has been destined to do so. But such claims are false, as false as it is for us to claim that ours is the only monopoly of truth. I am a Hindu and I am a Brahmin, and I feel proud of being a Hindu and Brahmin, but I do not like to claim that the truth is my own monopoly that the truth came to my ancestors and not to anybody else. If God gave the truth only to my ancestors and to nobody else, then it was unjust, and for the matter of that also foolish to have created other people on this earth. So my only request is—and I make it with all the humility and respect of a Hindu child for the elders—please do not bring in religion, do not count upon culture. Do not say Hindu society will come down. But please accept it on the basis of an intelligent view, a common-sense view, a rational view, a scientific view, of law as prevailing in the modern world. The law of every country is the outcome and result of the economic and social conditions of the country as well as the expression of its intellectual capacity for dealing with those conditions.

Now I come to the next point. We have been for a long time separated from the world as such. As I said there were six civilisations and the Chinese Potentate, the Japanese Emperor, the English King, the Czar of Russia, Babar of India all of them claimed that they came from God, all because.....

Pandit Lakshmi Kanta Maitra: To what particular clause of the Hindu Code is my Hon. friend referring?

Shri Krishna Chandra Sharma: I am referring to your remarks. Well, as I was saying, they all said they were supreme and they were the most mighty, and that was because they could not understand other people and they had no knowledge of them. Therefore they said, theirs was the best religion. But now with the aeroplanes, through the ships, through literature and the printing press and publication, you have come into contact with all the people of the world. You know other people and you understand them. You are influenced by them. Look at the desk of your child and there you will find the works of Bernard Shaw and Shakespeare. You do not find Ganga lehri there. But you don't think the child is not a Hindu because he has only Bernard Shaw and Shakespeare and Pearl Buck on his table. So every thought and action affect and influence all the countries of the world. You cannot have any law whatsoever

[Shri Krishna Chandra Sharma]

which is divorced from the influence of others, it has to be dynamic and then it will help the people to a great future. Divorced from that, separated from that, they are weak. So let us have the law on the scientific basis. In times past there might have been prejudices and there might have been different customs and there might have been any other thing. But today religion is a matter of scientific study. You cannot say that everything you believe is religion. Nobody is going to accept it. Religion is that which takes man from human stage, from the comprehensive human life to the region of Godhood and in raising humanity from huminity to Divinity, there are certain accepted principles from which you cannot escape. So in this twentieth century, neither is everything religion nor is everything culture nor everything the basis of society. There are certain well accepted principles, accepted by the world at large, by the jurists, by the religious teachers and all the great men of the world as the basis of society, as the basis of culture and as the basis of religion. Everything that you speak and believe is neither religion, nor culture nor the basis of society.

My friend asked me to what I was referring. In Mulla's Hindu Law the first page deals with castes. It says there are four castes in Hindu society. The second paragraph deals with whether *Kayasthas* are *Sudras*. The third paragraph deals with the question whether *Marathas* are *Sudras* or *Rajputs*. I put it to you in all humility: Is there anything of culture or religion in it? Religion takes from the universal love to the Divine bliss and culture means light and sweetness. The division of a people into castes is no culture and much less has it anything to do with religion.

An Honourable Member: Only agriculture.

Shri Krishna Chandra Sharma: Agriculture will give you food; your view is a thing that will bring you down.

Now, I shall put to you the sources of Hindu Law. I think my hon. friend is a lawyer and he will appreciate it. The sources of Hindu Law are, the *Shrutis*, the *Smritis*, customs having the force of law, commentaries, and then the judicial decisions of the Privy Council and the High Courts. So far as the *Shrutis* are concerned, nothing is known about them. I have quoted Jayaswal who is the greatest authority on ancient polity and he is of the view that what is stated in the *Smritis* is only a codification of the custom and usage prevailing when the *Smritis* came into existence. The *Smritis*, as I said, differ on the same point. The commentators are accepted; but they are accepted as authority not because they tell you what the law was, but because they tell you something that must have been in existence. According to the principles of Hindu Law, custom and usage override the written text of the law, and they are to be accepted. Then, comes the case law of the Privy Council and of the High Courts. How was this case law made? Up to 1868, the condition was this. The Hindu Law was administered by English Judges with the assistance of Hindu Pundits. The institution of Pundits as official referees of the courts was abolished in the year 1868. Your case law is the result of the English man's decision with the help of the Pundits. Now, I tell you, when the country is ruled by an aggressor, when the country is ruled by an invader, no self-respecting man much less a learned man, will sit beside him. Therefore, whatever class of Pundits were called, they were demoralised creatures: they were not representative of Hindus. Do you mean to say that you do not want to change the Hindu Law because Hindu Law is something sacred? What is that Hindu Law? Decisions of Englishmen given with the help of or at the suggestion of demoralised creatures. That is your Hindu Law. What is the sacredness

behind it? That is my point. You judge this present law on its own merits; judge the present code according to principles of jurisprudence. In accordance with principles a law is judged as necessary and good.

Coming to this Code, the first thing that it deals with is marriage and divorce. If you go through the different small Acts passed during the last two or three years, you will find that this is a mere codification and nothing new. You can have the sacramental marriage; you can have the civil marriage. You find Hindus marrying in different castes, even beyond the Hindu fold and they remain Hindu all right; you do not say they are outcastes. Therefore, what is prevailing, what is a fact already, you take as the law. I do not think you are changing anything. With regard to judicial separation and dissolution of marriage, look at the grounds: either party to the marriage was impotent, the husband is keeping a woman or a concubine, the other party has ceased to be a Hindu, either party is incurably of unsound mind, either party is suffering from a virulent and incurable form of leprosy. Now, I put you a simple question. Is there anything in any law, in any text of Hindu *Shrutis* or *Smritis* which bar these conditions? I have been looking into the Manu *Smriti* and I have found nothing repugnant to this. If my hon. friends find anything, they may bring an amendment. I am not against the *Smritis* and I am only proud of them. I have gone through the texts; I have not been able to find anything in them repugnant to this. If these conditions are in accord with notions of social justice as it is prevalent, I see no reason why you should not accept them. Are you an enemy of women? Are you an enemy of your mother and daughter? Our mother is a respected being and our daughter is part of our life and blood. Is that not so? Why then do you raise the cry that this is something which will bring down Hindustan and that the Hindu society will be crushed to pieces. There is nothing in religion, there is nothing in culture, there is nothing on the basis of Hindu society that is against these conditions and repugnant to them.

Take the case of adoption. My own feeling is that at this stage of evolution of our society, it is unnecessary and it has no meaning. There is a text in Manu on which this adoption is based: that a son-less father has no region in Heaven. The basis of that text was this. At that time, the Aryans were facing the aboriginal tribes or some people who were non-Aryans. Therefore, they naturally wanted their number to grow. They put it this way. A Hindu has three "*Rinas*": *Rina* to God, *Rina* to the *Rishis* and *Rina* to the *Pitras*, that is the race. That is, to carry on the thread of the race. To carry on the thread of the Race was necessary at the time Manu wrote the *Smriti*. It is not necessary today. Today the cry is not that we have not got children; on the other hand, the cry is that we have not got food and cloth. The fewer we are, the more of these things we will have. Therefore, at this stage, I do not see any reason for adoption. As to going to Heavens, the meaning behind the oblations and all these things was to keep up a spirit of charity in our society. Human society has grown so well and so organised that there is enough scope for charity and social service and generosity in this world rather than giving something to our ancestors who have gone beyond this world. It is better to work in this wide world. That is an institution which has no meaning. The meaning that it had has no application in the present day society. So far as secular purposes are concerned, that if a son is adopted he will serve the old man or old woman, I think it is of no use. Today, there are so many sick homes, hospitals and other homes. If you have got no property, it is useless to adopt a child and nobody is going to serve you simply because you have adopted him. If you have got property, there are enough institutions to help you in old age. My contention is that this institution of adoption in the present state of our society has no meaning whatsoever.

[Shri Krishna Chandra Sharma]

Regarding minors and guardians, I don't think it has made any departure from the Hindu Law as it is. Regarding Law of Succession, I am sorry I have not been able to see much about Succession and I can't say with confidence whether the present system of Succession is right or wrong. One thing I will say, viz., there is nothing wrong in principle to make a daughter co-heir with the son because under section 3 of the Women's Property Act 1937, the mother gets a share along with the son. What objection there is on earth to a daughter inheriting along with the brother? If mother can inherit along with son, there is no reason why the daughter should not inherit with the brother. Pandit Bhargava raised the objection that the sons-in-law will come and create trouble in the House. If two brothers do not create trouble why should the son-in-law create trouble. Go to Coonaught place and you will find that the fate of the husband is to take the coat of the wife behind and pay the bill; and so how can a husband create trouble when the wife does not want it.

An Honourable Member: That is in Northern India.

Shri Krishna Chandra Sharma: That is the evolution of man. The evolution of humanity is like that. Where are your moustaches? It is an ordinary biological principle that the female pells were developed and separated later and woman was better evolved. She is fairer, more tender and more beautiful. It is the way of progress to go to finer and more beautiful life. If you are otherwise inclined, I think you are less than human.

Then I come to the Joint Hindu Family. I have looked into authorities on this point and all great authorities agree that Hindu custom came into existence when the state of Society was pastoral. For that it was necessary to have Joint Hindu Family system. At present there are a number of laws by which we have done away with the Joint Hindu Family property conception. This was made at a time when there was not much trade and commerce. A farmer looks to the cow not as something worth 100/- but as something—a living thing associated with him in life—something sacred. So he takes the cow as it is and would not like to get the money from the son if the son goes away from the family because the cow is something sacred—that is how we regard the cow as Mother cow.

Pandit Lakshmi Kanta Maitra: Is there any father cow?

Shri Krishna Chandra Sharma: Times have now changed and therefore that question of Joint Hindu Family does not hold good and is not to be regarded as so essential and therefore sacred as it was when Aryan society was first established in India and these customs came into existence.

The second point is that this is not applicable to agricultural lands. So far as agricultural lands are concerned, new acts are coming into existence and succession in those would go on the same basis.

With these words, I commend this Bill for the acceptance of this House.

Shri B. M. Gupte (Bombay: General): Sir, I rise to accord qualified support to the measure before this House. This does not mean that I am opposed to many of the reforms that are proposed here. On the contrary I am prepared to say that they are in the right direction subject to certain modifications and adjustments. Adjustments are necessary. I will give only one example. The abolition of customary divorce is bound to entail much hardship to rural population of Bombay province because among the population there the practice of divorce is widely prevalent. In Bombay we have a Divorce Act but even that Act makes an exception of Customary divorce. I therefore say that certain adjustments are necessary. The provisions with regard to divorce, marriage and maintenance and minority—these may be proceeded with and made

into law. I have no objection about them but I can't lend my support to the enactment of the provisions embodied in parts 5, 6 and 7. They make fundamental changes. In fact they unsettle the entire law of inheritance of the Hindu Community. Therefore the question arises whether this is the time quite opportune for such general unsettlement. We are in the midst of a political and economic situation which is characterised by unrest, turmoil, misery and disruption and therefore the question is whether we should complicate the situation still further by introducing revolutionary changes which affect the entire social structure of the country. Our Prime Minister often insists, and rightly insists, that in this emergency first things should come first and this is not the time for things which bring disruption. If we apply this test to this measure, what would be the result? I ask, are these so pressing, that we must face the risk of intensifying the complexity of the situation which is already difficult enough? The answer is obvious. The Hindu Law has been in existence for years and if there is to be a revision of it or its codification there is no urgency at the present juncture. This is not the opportune time for such a general unsettlement of the existing law.

It is our well known experience that social legislation which is in advance of public opinion defeats itself. In this I include not only the vocal urban section of the population but also the teeming millions in the villages. We have to see whether this legislation is in advance of public opinion. We have the experience of the Sarda Act. In spite of its strict provisions the law became a dead letter in its enforcement. In this case it will not become a mere dead letter. The enactment of the provisions laid down in parts V, VI and VII will bring about far more mischievous results than being a mere dead letter.

In the villages there are the goondas who because of their detailed knowledge of the law try to exploit the ignorance of the villagers and dupe them into protracted litigation. This evil is already rampant. The law of succession or survivorship, owing to long usage and familiarity is already known to the villagers. The result will be that we shall be affording one more source for the village goondas to exploit the ignorance of the villagers. I therefore want to emphasise that though I am not opposed to reform, this is not the time to introduce a measure like this.

Whatever decision we may take here or in the provincial capitals in the present condition of illiteracy of the masses, it is difficult to carry such legislation to the villager. We have already the experience of the Grow More Food Campaign. In my province the Government is offering numerous concessions and facilities but the villager does not know them at all. What will be the result of this law? The village goonda will be able to exploit the ignorance of the villager in this matter.

In one respect the situation in the villages will be worse than that in the urban area. According to the present constitutional position this law will not affect agricultural land. It will mean that there will be two sets of heirs for the property of the deceased agriculturist. His agricultural land will go to one set of heirs, while the rest of his property will go to another set of heirs. This is bound to make confusion worse confounded. We are enacting this legislation with a view to secure uniformity but instead of uniformity and simplicity there will be complexity and confusion. To avoid such confusion it would be better that we wait till the new constitution is ushered in. Let us not be in a hurry. Personally I feel that this measure can be introduced and pursued after one or two general elections have taken place. Those general elections are bound to quicken the political consciousness of the villager and bring him into more effective contact with the working of the legislature. He will then be in a better position to influence legislation which vitally affects his interests.

[Shri B. M. Gupte]

Therefore I submit that till such time comes, till there is some quickening of political consciousness among people, let us not thrust the legislation upon them.

I finally appeal to our enthusiastic friends who are the ardent champions of this legislation that by our over-enthusiasm let us not defeat our own object.

Shri A. Karunakara Menon (Madras: General): Sir, I rise to support this Bill, so far as it goes, with all my heart. It will no doubt go a great way to consolidate the Hindu society. The Hindu law as it exists today is only a conglomeration of several systems of law. We have declared in our Constitution that it shall be our aim to frame a uniform civil code applying to the whole territory of India. This Hindu Code will go a great way to assist in the evolution of this uniform code of law. I wish some Muslim friends introduced a law to codify the Mohammedan law also. The Christians have already a codified law. After these three codified laws are brought into existence it will be easy to pick out the uniform provisions of these three codes and try to accomplish the object that we have aimed at under the Constitution. This Bill is also welcome inasmuch as it will extend the rights of women.

But I have some complaints to make. This law is not as progressive as it ought to be or as the people wish it to be. It is far behind in several respects the *Marumakkattayam* law that exists in my part of the country. We should not be dragged down from the position we are in at present. If amendments could be introduced in the Bill and if it could be made possible for us also to make use of the Bill, none would be more happy than us.

The provisions of the Bill as they stand at present have been conceived at from a patriarchal point of view. The provisions of the matriarchal system of law, wherever they are progressive, could be introduced into this Bill and that point of view has not been taken into consideration at all. It might be pointed out that the original Bill as drafted in 1947 excluded the *Marumakkattayam* and the *Alia Santhanam* law from the operation of all the important branches of law covered by it. I will point out why this Bill is not sufficiently progressive and why it should be made more progressive.

Marriage under *Marumakkattayam* law is a purely mundane affair. There is no religion in it. There is no sapindaship or sacrament in it. This Hindu Code Bill recognises only two kinds of marriage—sacramental marriage and civil marriage. Civil marriage is common and we have no objection to it. We are prepared to abide by the provisions relating to it.

That the authors of the Code were under a misapprehension that even the *Marumakkattayam* marriages were sacramental marriages is clear from a reading of clause 51 of the Bill where they say that even the Malabar marriages are sacramental. That is the basis on which they have framed that clause. In Malabar marriage has nothing to do with religion. Clause 51 says:

"Nothing contained in this Part shall be deemed to affect any right conferred by the Madras Marumakkattayam Act, 1932 (Madras Act XXII of 1932) to obtain the dissolution of a sacramental marriage, whether solemnized before or after the commencement of this Code."

There is another direction in which we would like to get an amendment of this Bill in so far as we are concerned. Our law allows us to marry our father's niece or our maternal uncle's daughter. In fact many of us consider it a privilege to marry our uncle's daughter or our father's niece. But this is

interdicted by the provisions relating to sapindaship and prohibited relationship. This encroachment on our right is not likely to be viewed with favour by the people of my part of the country.

In regard to judicial separation or restitution of conjugal rights, there are no provisions at all in our law. Either a marriage exists or it is got rid of by means of a divorce. There is no middle course. The provision for divorce is very simple. Either of the aggrieved parties goes to the nearest court of civil jurisdiction and puts in a petition with twelve annas stamp on it praying that "for such and such reasons we are not able to pull on together and therefore a divorce may be granted". For a period of six months that petition is kept pending. Perhaps the authors of the law wished to see whether a reconciliation was possible within this period of six months. After this period of six months, if nothing took place divorce is automatically granted. This provision is simple and from clause 51 of the Bill it is clear that it has attracted the attention of the framers of the Bill because this provision for divorce is found retained in the Bill. But I do not know why the benefit of this provision is not extended to all other Hindus.

The provision for dissolution of marriage has infuriated some of the members of this House. Even though the provision for divorce has been in existence in Malabar since 1932, I believe, not even a dozen divorces would have actually taken place. This proves the truth of the statement made by a learned author—I mean Bertrand Russell—that "the easiest divorce laws by no means produce the greatest number of divorces; wherever there is divorce, adultery is scarce and morality is higher".

Coming to adoption, the provisions contained in this Bill are very unsatisfactory when compared to what prevail in our part of the country.

According to this Bill, adoption is a religious matter, but among the *Marumakkattayam* people it is a purely secular matter. Under the Hindu Code only a male or his widow could adopt a person, but according to our law any person, whether male or female, could adopt a person. Whereas only a male could be adopted under Hindu Law, males or females could be adopted under our law. Whereas only one person could be adopted under Hindu Law, we can adopt one person, two persons or even one whole family, at the time of extinction of our family or as heirs to our property. So there is a lot of difference between the Hindu Law and the *Marumakkattayam* Law in this respect. The reason why these things have not been taken into consideration in framing the Bill is, according to me, that the whole perspective has been entirely patriarchal and not matriarchal also. If that point of view also had been taken into consideration then many of these differences could have been resolved or reduced.

In regard to joint family property, the substitution of tenancy-in-common for joint tenancy is one of the most important features in the Bill. I welcome this provision. But this part of the law again has been framed from the patriarchal point of view only. Read any clause under Part V—I am not going to trouble the House but I only wish to bring it to the notice of the hon. the Law Minister—read any clause in part V and you will find that it is inapplicable to the *Marumakkattayam* people, though the Hindu Code Bill is intended to apply to them also. Clauses 66, 87 and 88 will show that none of them could be made applicable for the tenancy-in-common being introduced into the joint families that exist in Malabar.

With respect to Inheritance, I do not know why mother should not be made an heir along with son and daughter. Suppose a man dies—suppose I die. My natural love and affection induce me to see my mother who has brought me up and who has taken interest in me all through my life, an heir to my property. Here what I find is that the mother has been omitted in Class I.

[Shri A. Karunakara Menon]

My second complaint is why the son of a predeceased son or the son of a predeceased son's son ought to be introduced in Class I. He ought to come in Class II. It is revolting to us to make them preferential heirs in class I. If you ask anyone in Malabar as to whether he would like his property to go to his son's predeceased son's son, or his son's son even, or to his sister or sister's children, he will certainly say that even in preference to his brother it should go to his sister and sister's children. So I say that the rank given to sister and her children in Class II of the Seventh Schedule ought to be raised than what has been given there. Sister and sister's children come very low; in Schedule VII, they come only after son's daughter's son, son's son's daughter, son's daughter's daughter. It is after all these persons that we find even brother and sister appearing as heirs. I do not know why promotion ought not to be given to brother and sister who were born of the same womb. Natural love and affection should certainly induce us to give brother and sister a higher rank than what has been given to them under the provisions relating to inheritance.

[At this stage Mr. Deputy Speaker vacated the Chair, which was then occupied by Shrimati G. Durgabai (one of the Panel of Chairmen)].

Looking at the question from all these points of view, it will be seen that the whole Bill has been looked at only from the law that is prevailing in the other parts of the country than Malabar—which no doubt is certainly followed by the largest number of people—but the matriarchal system of law has not at all been taken into consideration in framing this Bill. Therefore I feel that this Bill is not sufficiently progressive either with respect to the rights of women, which we all desire so much to be given to them, or from the general point of view.

We are very anxious to be brought within the scope of this Bill. We do want uniformity. I am one of those who wish, and the people of my part of the country also want to see, that there is one uniform law existing for all the Hindus in the country. But at the same time it should not be made so revolting or made impossible for my people to follow the law, or even if they do so to do it with a certain amount of reluctance. It ought to be made attractive. My submission is that in framing the law the matriarchal system of law has also to be taken into consideration. I submit that proper amendments might be introduced to attract us also to come within the scope of the Bill. If for any reason the two systems are so divergent that it is impossible to introduce amendments in the Bill so as to attract us also within the scope of the Bill, my appeal to the House is that we may be left alone, that we may be allowed to follow our own law which stands on a higher footing of love and affection than the Hindu Code Bill that has now been introduced in this House. According to me this Hindu Code Bill is not a secular measure, it is not a rational measure; religion still pervades throughout the Bill. The Bill ought to be entirely a rational one. I would have had no objection if the whole Bill had been framed from a natural outlook, an outlook entirely divorced from religion. If a Bill like that is introduced, our people would be too glad to follow it. What we notice is that the Bill as it is framed now is religious still to a high degree; though it has been watered down, it is not yet sufficiently secular. I don't know why in marriage, adoption and inheritance, religion ought to intervene, why the provisions relating to them ought not to be made more secular as they prevail today in our part of the country. There is no reason why we who follow a system which has nothing to do in all these mundane matters with religion, should be roped into this Bill in which religion plays a prominent part.

Mr. Chairman: There are only ten minutes left. I want to know if any of the Members will finish his speech in ten minutes.

Some Honourable Members rose—

Shri Sita Ram S. Jajoo (Madhya Bharat): Madam, I will finish my speech within ten minutes.

At the outset I want to make it clear that I am wholeheartedly in support of the present Hindu Code Bill. It is with a hesitant heart that I am standing here because I feel that almost all the Members belonging to the older generation were speaking against the Hindu Code Bill. I don't challenge their hearts, but so far as the Hindu Code Bill is concerned their hearts seem to be older or staler.

Shri M. Tirumala Rao: May I say that ladies of the older generation also are supporting you?

Shri Sita Ram S. Jajoo: Yes, because they are progressive, because they want to progress. In the words of my friend Mr. Krishna Chandra Sharma, they are more progressive and going forward whereas the men are going backward. Any way, I am concerned with the Hindu Code Bill as it stands today.

Madam, I would not have spoken but for the fact that I can represent the views of the younger generation here, and I can confidently say that the younger generation in the country stands by the Hindu Code. Much ado has been made about the fact that this Bill has not been circulated for public opinion in the Indian States. I want to say that there have been many Bills which we have passed in this House, but at that time nobody raised his little finger and said that those Bills were not circulated for eliciting public opinion in the Indian States.

Some Honourable Members: But this is such a controversial Bill.

Shri Sita Ram S. Jajoo: There have been so many controversial Bills. The question of Sirohi was most controversial but the States people were not consulted on it.

Shri Gokulbhai Daulatram Bhatt (Bombay States): Madam, there was no Bill connected with Sirohi.

Mr. Chairman: May I request hon. Members to allow the speaker to go on uninterrupted?

Sardar Hukam Singh: Is it not for the elders to correct if the younger generation goes astray?

Shri Sita Ram S. Jajoo: They are definitely in their rights to control and guide the younger generation, but that must be towards progress, it should not be a retrograde step.

An Honourable Member: Our experience extends up to 80 years.

Shri Sita Ram S. Jajoo: The experience of 80 years may be there; but the experience of the Father of the Nation, Mahatma Gandhi, is also there. There are volumes of books containing the articles written by him from time to time in favour of the elevation of the Hindu women. And so far as the Hindu Code is concerned, I have heard from many of the staunch opponents that they won't mind if the whole Code is passed excepting the provision regarding inheritance and the sharing with daughters and sisters. It has been opposed mostly by the community, to which I also belong, the Marwari community. But I say that the Marwari youths are for the Hindu Code Bill. If we say that the older people are there and their experience is there, Mahatma Gandhi in his autobiography has written that it is a most pitiable sight to see the Hindu wife

Pandit Mukut Bihari Lal Bhargava: You can't exploit Mahatma Gandhi's name.

Shri Sita Ram S. Jajoo: Perhaps you might have exploited his name much more than what I have done. I have just started my life and I had no opportunity of swearing by the Mahatma's name whereas among people who are old and who have got grey hair there might be some who might have exploited his name hundreds of times.

Madam, Mahatma Gandhi writes that so far as the position of Hindu wives is concerned, it is most pitiable. He says that if the master is annoyed with a servant, the servant may leave his master, if one is annoyed with one's father he can demand partition, if a father is annoyed with his son he can ask him to get out, but so far as the Hindu wives are concerned they cannot go anywhere. If that was the case with Kasturba at the hands of the Mahatma, what would be the position of women at the hands of ordinary human beings like us?

So far as the Constitution is concerned, we have agreed that there is equality of sex, but here we are afraid of granting that equality to our women folk, to our sisters and daughters. You can adopt a boy from a family simply because he also happens to have the same *Gotra* or the same surname, but you are not prepared to tolerate your own daughter or your blood sister simply because she happens to be a female. That is the position.

Much ado has been made about the Bill by saying that it is an insult on the Hindu religion. I want to ask this of my friends. The Hindu religion is very adjusting and accommodating. It has adopted itself to changing circumstances from times immemorial. The very fact that there are 137 or 138 *Smritis* is evident to this statement. If there was a fixed law and no change suggested or expected in the Hindu law, then why are there 138 *Smritis*? And why we cannot have one more *Smriti*, codify and have a new Hindu law? We can have in it all the good things of those *Smritis* together with all the good things which the modern times and the scientific developments and the social progress demand. What is the harm if we codify all these into one law? The very word *Smriti* indicates whatever is written from memory, the word *Shruti* indicates whatever is heard and written. It is nowhere stated that they were written by a particular *Rishi* or a particular *Muni*. So, I don't think there should be any hesitation in having this Code nor should anybody feel that his conscience will be killed if this Hindu Code is enacted. We have always been speaking from the political platform about freedom. Political freedom has been achieved. We have achieved independence but we have also to see that the social evolution of the country also takes place. If we want the social order to change, I say this is the time for it. We have to prove it by our actions, not by words. We must see that the whole social order is changed. As regards reform, I may say that even the late Raja Ram Mohan Roy had to face opposition, many other reformers had to meet with opposition, some of them died an unnatural death at the hands of their opponents whom they wanted to help, whom they wanted to elevate and to whom they wanted to bring salvation. Here we have got our leaders who are certainly with us. After the Prime Minister's speech on the opening day of the session, I don't think there is anything for arguing here or for fighting over this issue when he said that he was for the greatest common measure of agreement if it could be arrived at. If we are prepared to have a compromise with others then I feel this will not become a progressive measure, it will lose its charm. But still I have more faith in the wisdom of our Prime Minister. I feel he is much more wise than I can be or my young friends can be. I have faith in him. If he wants compromise, or if the Government wants compromise, let there be compromise, but so far as young people are concerned, we do not like the compromise. But we certainly have faith in our leaders and we shall obey their commands.

Pandit Lakshmi Kanta Maitra: But none of them are here.

Shri Sita Ram S. Jajoo: If they are not here, the hon. Dr. Ambedkar is here. He is the sponsor of the Bill and he is doing it on behalf of the Government. It is no use cursing this Government. After all, if we go into the history of this Bill, we will see that it was brought by our predecessor government.....(*Interruption*).

Madam, I would like to speak for about ten minutes more, because there have been interruptions. If you so desire, I may continue tomorrow. I will not take more than ten minutes.

Mr. Chairman: The hon. Member is requested to close his speech, because he has assured me that he will take only ten minutes.

Shri Sita Ram S. Jajoo: But you will appreciate my difficulty, Madam. I have been interrupted so much. I would like to speak for ten minutes more tomorrow, if you do not mind.

Mr. Chairman: May I know whether the hon. Member can finish his speech within three minutes more. I will give him three minutes now.

Shri Sita Ram S. Jajoo: I know, Madam, I have given an assurance. If you wish, I may sit down just now. But I thank you for giving me three minutes more.

Now, I was saying that Dr. Ambedkar is here. He will certainly convey our views. He is in charge of the Bill. It is no use cursing and blaming the present Government. After all, if we see the history of this Bill, this Bill was brought by our predecessor Government—a foreign government. At that time, we did not have the guts to fight it. Whenever social measures were brought forward by the foreign government.....

An Honourable Member: Don't worry about history.

Shri Sita Ram S. Jajoo: I have to look into the history certainly, but let me proceed with my speech just now. When the British Government brought certain measures which affected the Hindu law, we accepted them at that time, because they did not touch the purses of the moneyed people—the capitalists. Here we feel the pinch, because it touches our pockets. We male members of this House are in a huge majority. I do not wish that the tyranny of the majority may be imposed on the minority, the female members of this House. The ladies in the country in general are illiterate; so we should not exploit them. A big tirade of propaganda is being carried on that this Bill aims only at one thing and that thing is divorce. All ladies are persuaded or dissuaded or influenced or canvassed by telling them that their husbands are going to divorce them after the Hindu Code is passed. This kind of misinterpretation of the provisions of the Hindu Code is going on. I want to tell all these people that there will hardly be a single man who would like to divorce unnecessarily; similarly, there would hardly be a single Hindu wife who would like to divorce unnecessarily. There is enough good reason and sense in the courts, and the judiciary will definitely look into the whole case and see that justice is meted out. This is all I have to say.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Tuesday, the 13th December, 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Tuesday, 13th December, 1949.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-45 A.M.

MOTION FOR ADJOURNMENT

UNDESIRABLE DEMONSTRATION IN FRONT OF COUNCIL HOUSE

Mr. Deputy-Speaker: I have received notice of an adjournment motion from Mr. Algu Rai Shastri, but it was received late, at two minutes past eleven. I shall read it out all the same. The notice is in Hindi but I have got a translation here which reads as follows:

"I propose that this meeting of the Legislative Assembly be adjourned for consideration of the following resolution as it relates to a matter of urgent public importance:

The demonstration that took place in front of the Council House on the 12th December, 1949, was undesirable. The incidents that took place in the course of the demonstration were most unbecoming such as the attack on the car of the Kashmir Premier, removing of Gandhi caps from the heads of the Congressmen, marching with these caps hung on sticks, burning them publicly, raising of the most scurrilous slogans against the Government, the Congress and the Prime Minister of India, the stopping of buses, forcing entry into them and removing of Gandhi caps, causing shops to be closed by force etc."

The notice has been received late. I need not give any other reason for disallowing it.

POLICE BILL

The Honourable Shri Satyanarayan Sinha (Minister of State for Parliamentary Affairs): Sir, I move for leave to introduce a Bill to provide for the constitution of a general police-district embracing two or more Chief Commissioners' Provinces and for the establishment of a police force therefor.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the constitution of a general police district embracing two or more Chief Commissioners' Provinces and for the establishment of a police force therefor."

The motion was adopted.

The Honourable Shri Satyanarayan Sinha: Sir, I introduce the Bill.

IMPORTS AND EXPORTS (CONTROL) AMENDMENT BILL

The Honourable Shri K. C. Neogy (Minister of Commerce): Sir, I move for leave to introduce a Bill to amend the Imports and Exports (Control) Act, 1947.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to amend the Imports and Exports (Control) Act, 1947."

The motion was adopted.

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

HINDU CODE—Contd.

Mr. Deputy-Speaker: The House will now proceed with the further consideration of the Bill to amend and codify certain branches of Hindu law.

Shri Alladi Krishnaswami Ayyar (Madras: General): Sir, before dealing with the different aspects of the Bill as it emerged from the Select Committee, I should like with your leave to make a few general observations. I may at once say that I do not belong to the school which is against any legislative interference or change in matters of Hindu Law. Law by its very nature cannot be static; it must keep pace with the progressive tendencies of the age if it is to be an instrument and measure of social progress. Our ancients were quite alive to this function of law in society. The *Smritis* as well as the great commentaries on the *Smritis*, bear eloquent testimony to this function of law in society and the need for changes from time to time. The commentaries which are treated as authoritative interpretations of law in different parts of the country merely give concrete expression to the social tendencies at work at a given time, but in the modern age with duly constituted Legislatures functioning, no jurist counsel can effect a change in the law by a mere process of interpretation. This function to some extent but within a limited sphere has been discharged by the Courts, the highest tribunals in India and the Judicial Committee of the Privy Council, during the last one hundred years or so. It is not, however, the normal function of Courts to effect a change in the law but only to interpret the law though in the process of interpretation it may effect imperceptible changes by distinguishing or extracting principles from previous decisions or from Hindu law texts.

But by its very nature, judicial function is restricted in its operation. It cannot be gainsaid that there is also a danger in the Judge consciously or unconsciously assuming the role of a legislator. A particular Judge or a Bench might approach the consideration of a question from a conservative or orthodox point of view, another Judge might utilise his judicial function for any pet theme of social reform. The judgments of the highest tribunals in this country as well as those of the Judicial Committee of the Privy Council during its long association with India, bear witness to the above statement. At the same time, there is no gainsaying the fact that the decisions of Courts to a large extent have prepared the ground for legislative intervention. While this need for legislative intervention is apparent, this Assembly in undertaking any legislation of this kind cannot altogether ignore certain rooted conceptions in regard to marriage, family law and rights of succession. Change is inevitable and is part of the organic law of society, but change does not mean striking at the roots or foundations of society.

Bearing all these aspects of law reform in mind, I should like this House to approach the consideration of this Bill. There is no subject in which every man and woman in this country is interested more than the Bill now under

consideration by the House. That makes it all the more incumbent upon each one of us, however highly circumstanced or lowly circumstanced, to tolerate difference of views and to bring to bear a cool and dispassionate judgment in the larger interests of the well being of the people of this country. In that sense and to that extent this cannot be treated purely as a Party measure or as a matter of confidence.

First, with your leave, Sir, I shall take the Chapter relating to marriage and divorce. While dealing with this Chapter, it is well to remember that already great inroads have been made into the marriage law by the various Acts of the Indian Legislature. The latest of such Acts was the Hindu Marriage (Disabilities Removal) Act of 1946 (Act XXVIII of 1946) by which it has been enacted that a marriage shall not be invalid by reason only of the fact that the parties thereto belong to the same *Gotra* or *Pravara* or belong to different castes or sub-divisions of castes. The Madras Legislature has recently made monogamy compulsory and some of the Provincial Legislatures have already made provisions for divorce. A change has also been made in regard to the law relating to the age of consent to marriage. If we approach the consideration of the Bill from this point of view, the changes effected in the Bill are by no means so revolutionary as they may seem at first sight. The substantial changes in the provisions of the original Bill as pointed out by some Members of the Select Committee relate to the incorporation of certain provisions relating to restitution of conjugal rights, judicial separation, alimony, custody of children, jurisdiction and procedure of Courts.

While on the provisions of the Bill, I should like to mention one important point. The distinction sought to be made between sacramental marriage and civil marriage is more apparent than real. It is difficult to follow the provisions of the Bill in this respect, because I find that in regard to divorce, in regard to restitution of conjugal rights, in regard to right of maintenance and obligations of the marriage the provisions are exactly the same both in regard to what is termed, "Civil Marriage" under the provisions of the Bill and what is termed "Sacramental Marriage". The Bill introduces a distinction between what is called "prohibited degrees" and other kinds of disqualifications in regard to sacramental marriage. In regard to sacramental marriage, provision is made that *sapinda* relationship as defined in the Bill will be a ground for disqualification, whereas in the case of what is called a "civil marriage" it is only prohibited degrees that are made a ground for the marriage not being effective. At the same time, I am unable to follow the metamorphosis provided for in the Bill that even if the parties go through a sacramental marriage, it is open to either of the spouses to convert it into what is called a "civil marriage" under the provisions of the Bill. If really this distinction serves any purpose at all is a point which may be considered by the hon. the Law Minister before the final passing of the Bill.

There is no distinction in regard to the rights of off-spring, rights of inheritance, the obligations between the spouses and in every other matter. The position is exactly the same in regard to a civil marriage as in regard to a sacramental. Possibly, the idea is to satisfy the sentiments of some parties by making some provision for what is called "sacramental marriage". If that is the real object, then you ought not to make a provision for an easy change of sacramental marriage into a civil marriage at a later stage. Either have the one or the other. If, for example, you want to draw a distinction between sacramental marriage and civil marriage, have it; let it be quite clear and definite: Normally, certain ceremonies are indispensable for sacramental marriage. Certain formalities need not be gone through in the case of what is called "civil marriage". From the point of view of a pure lawyer, I fail to see any real distinction between a civil marriage and a sacramental marriage.

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under the provisions of this Bill. I do not go to any root ideas of the Bill, but I merely place it for the consideration of the hon. the Law Minister.

Then again with regard to prohibited degrees of relationship, modern eugenics is against the idea of people related to one another marrying. At any rate, there is a large body of opinion in favour of this doctrine. Under those circumstances, are we advancing or are we retarding progress so far as this provision is concerned? At least so far as this part is concerned, I think our ancestors anticipated modern ideas in prohibiting certain people from marrying. I ask you: why take a retrograde step in the name of progress and in the name of advanced ideas and civilisation? I certainly realise that there need not be any prohibition in regard to distant *sapinda* or people who have the same *pravara* or the same *gotra*. But that stands on a different footing altogether.

Where there is near relationship, why relax the rule? I have been 12 Noon. recently reading in newspapers and periodicals a good deal of discussion as to the advisability of near relations marrying one another. This is one aspect which I know the hon. the Law Minister, as a student of science and of history, will certainly consider. This is opposed to the religious sentiments of the people. If scientific ideas, if religious considerations, if sentiments of the people have all to be taken into consideration, then there is no point in relaxing that rule. It is not, of course, consistent with the well being of the society. If in the interests of the future generation, if in the interests of the well being of our people, if in the interests of the progress of the race, you must promote marriages between near relations, by all means do so. Let us take a bold stand; let us take a clear stand; let us take a determined stand in regard that matter. I do not want any shilly-shallying in regard to what may be regarded as a question of fundamental principle. Either adopt the ancient principle or adopt a more rational or modern principle according to your ideas. But personally, I would very much prefer the old rule being retained. Let me be quite clear. In regard to particular communities where, for example, certain customs have been prevalent in some parts of India, you have already provided for it in another clause. But the general rule should be to prohibit marriage between *sapindas*. In this respect, the move is not in the right direction.

With regard to the law of divorce, in trying to bring about a uniformity of law there is no point, as Sir Tek Chand has pointed out in his memo. in imposing special restrictions upon communities and classes of people among whom restrictions do not obtain at present. I know that in parts of South India divorce by mutual consent in the presence of the village headman or the Panchayat is still prevalent as in other parts of North India. After all, it looks as if divorce is to be the essence of the law of marriage according to a certain school. But must you think of divorce before you think of the marriage? If that is the running idea and if you want to give encouragement or at any rate provide an easy divorce, why provide for law courts, divorce courts, an appeal court with three judges sitting, etc. when the communities affected have got hardly enough to eat? I should think that is not a move in the right direction. In so far as any divorce is permitted according to the custom of the community in particular castes, it should continue; but in the interests of uniformity you need not make the divorce more expensive. It would certainly benefit my profession and I am not at all against it. But I know my hon. Friend Dr. Ambedkar very well and I have no doubt he will consider all the aspects of the question before coming to a conclusion on this particular question.

In regard to judicial separation, I recall to mind a very interesting debate in the House of Lords some years ago in which Lord Birkenhead took part. Very eminent lawyers and some of the greatest jurists of the day took part in the debate. There was a certain section of the people who took a strong view

to the effect that judicial separation is another name for legalising concubinage. I would rather prefer a clean case of divorce to this judicial separation continuing. If it is a question of providing maintenance, if it is a question of seeing that the obligations are discharged that the wife is not starved or that you do not discharge your marital obligation, while continuing to be man and wife, provision is made in the Bill in regard to that.

Why all these complicated provisions of the English law in regard to alimony, in regard to judicial separation, in regard to divorce and restitution of conjugal rights? Is it necessary to have so many detailed and complicated provisions is a point which is worth consideration.

Pandit Lakshmi Kanta Maitra (West Bengal: General): They are necessary in the interests of the progress of the country.

Shri Alladi Krishnaswami Ayyar: I am not giving one view or the other in regard to that. You may have your decided views on that matter. But I have no decided views on the subject.

Therefore, I think we have to take the modern trends of thought into consideration and not merely go upon antiquated ideas prevailing in England. Even in England within the recent years there has been a great change of opinion in regard to marriage law, although every aspect of it has not found a place in the Statute Book of England. Therefore, instead of merely copying the English precedent let us see if it is possible to make any changes.

So far as the general principle of it is concerned I do not think that the Bill is drastic at all in regard to divorce or other matters. Whatever difficulties and complexities have arisen are due to a genuine attempt to harmonise the two opposing views—on the one hand the ancient idea that marriage cannot be easily severed and on the other the modern ideas which demand separation under certain circumstances. The problem now is how to bring about a synthesis between the two opposing views. Let us approach the consideration of this problem with a certain amount of coolness and with an attempt to understand one another. We cannot stop the current, whatever might be our views. I belong to a very conservative and very orthodox family. I am one of those who believe still in *Shradhas*. I attach considerable importance to my family home and I believe, to some extent, in the ancient view of life. But I cannot at the same time ignore the present day tendency. My sons may not be just like myself and my grandsons much less like myself. Under those circumstances, though my life is rooted in the past, to a very great extent I am in a position to appreciate modern tendency. Therefore, taking all these factors into consideration let us approach the consideration of this measure. If really you believe in sacramental marriage, this method of converting sacramental marriage easily into a civil marriage somehow does not appeal to me. That is my view. Either have sacramental marriage or do not have it at all. Have particular grounds of divorce for sacramental marriage and particular grounds of divorce for civil marriage. Somehow I cannot reconcile myself to the idea of mixing up the two.

Now I shall take up the chapter on adoption. The chapter on adoption does not call for any detailed consideration. While the main principle in regard to the law of adoption laid down by the judicial decisions bearing upon the subject have been kept in view, necessary changes have been effected as a consequence of changes in the law as to marriage between persons belonging to different castes. There is no point in conceding the rights of inheritance to the offspring of such marriages and retaining ancient rules as to the eligibility of a boy for adoption based upon the law of marriage as a condition precedent for the validity of adoption in particular castes and particular circumstances.

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The simple rule as to giving and receiving has accordingly been adopted for a valid adoption in the Bill. The property rights have been regulated with a view to avoid litigation between adoptive mother and the boy to be adopted. A provision has been inserted for preventing the divesting of estates which will have the effect of putting an end to interminable litigation which has been the special feature of law relating to adoption beginning from Bhuban Moyee's case. The law has also been simplified in regard to the need for any authority to adopt as a condition for the validity of adoption following the main principles of Mayukha Law. On the whole, it may be claimed that there is everything in the chapter on adoption to commend it for the favourable consideration of this House. The need for an express authority from the husband for the validity of adoption, the restriction of the scope and the terms of the authority conferred by the husband, the free consent of the nearest *sapindas* who are most interested in disputing the adoption and being a substitute for the authority of the husband, and the relative claims of the senior and junior widow, the limits that ought to be placed upon the exercise of the power to adopt have been fruitful source of litigation in British Indian courts. The Bill, I have no doubt, has considerably simplified the law as to adoption and the rights of the adopted son. On the whole, I should think there can be marriage between different communities—it has become part of the chapter on adoption, because when once you agree to the principle that there can be marriage between different communities—it has become part of the law—all these restrictions which have been obtaining in regard to the eligibility of the boy to be adopted must necessarily go. When *gotra* has disappeared, how can *sagotra* be a qualification for adoption? Therefore, in the interests of simplicity and of logic, we have necessarily to see that giving and taking are enough; we have to reconcile ourselves to this situation. Having taken the first step, you cannot stop at the second step. The Legislature here has already taken the first step. Therefore, there is no use fighting shy of the next step. Under those circumstances, I would commend for the favourable consideration of the House the Chapter on Adoption.

I am just coming to the other parts of the Bill where I differ from the Members of the Select Committee. In dealing with the institution of joint family, the problem of Indian agriculture and its future and the position of many trading facilities belonging to communities which have trade or business as their principal avocation must necessarily form an important factor. Anyone who is in touch with conditions of village life in India knows that particular families have long been in possession of particular lands from generation to generation, that being the main reason assigned for conceding occupancy rights to tenancy families who have been cultivating the land for a long time. Here I must say that I radically differ from my respected friend, Mr. Santhanam, in regard to what he said about village life in India. It is not correct to say that the joint family is breaking up. I also claim to be in touch with village life in India. I am a villager myself, though I have spent about forty years in the City of Madras. Hardly has there been any year in these forty years in which I did not spend at least a month in a village. I spend a good part of Christmas and the summer vacation in the villages and with the people of the villages. Therefore I claim to know something of village life in India, at least village life in Madras, though I know very little of village life in other parts of India excepting through the medium of books and village manuals. Therefore I wholly disagree with the statement that so far at any rate the villages of India are concerned, the joint family life is breaking up. At the same time, I certainly agree with my friend, Mr. Santhanam, in this, *viz.*, that so far as what may be called collateral branches are concerned, after the first generation, there is a tendency for the joint family to break up. In the first generation there is no breaking up, certainly not during the life-time of the father. If

there is any breaking up, it generally is after the children of the father pass away and children's children come into their own. Therefore you must take the existing state of things into consideration instead of proceeding merely on theory. I myself have been a member of a joint family till recently and I still believe in the ideals of a joint family life. I certainly think that in certain aspects of life in regard to education for example, the joint family system has done a good turn. Many a poor brother has starved himself in order to educate his brothers; many an uncle has starved himself in order to educate his nephews. A sort of qualified Socialism has existed in the joint family life. At the same time, I agree that no institution can last for a long time. No institution must be allowed to come in the way of social progress. But the question is, has the time come for this question to be taken into consideration? I do not subscribe to the view that the joint family system is breaking down so far as the villages are concerned and in any scheme of reform we must remember that India is a land of villages. The rural people are still following the joint family system to a large extent. The recent inroads made into the joint family system by conceding rights to the widows and daughters-in-law have not materially affected the position. Even in regard to non-agricultural property, communities which have trade as their principal avocation are still carrying on trade or business as a family adventure or business. It is so in my part of the country. I have had a good deal to do with the Nattukottai Chettiars for the last forty years, and it is only within the last five or ten years that they are starting companies not with the idea of breaking up joint families but to see that they get out of income-tax regulations. Therefore it is not correct to say that joint family life is breaking up either among the *Vaishyas* or among the Nattukottai Chettiars or among the *Marwaris*. Now, sitting in this Legislative Assembly or Parliament, there is no use our thinking that we are in possession of all the facts regarding every nook and corner of India and legislating on that basis. The only thing we have to consider is, is it so out of tune with modern conditions and is it going to stand in the way of further progress? You have also to note certain changes which have already been made in the joint family law. The rigours of joint family law have been considerably relaxed in recent years. It is now settled law that any member of a joint family may by a unilateral declaration sever himself from the rest of the family without reference to any court of law. The manifestation of will or intention on the part of any member of the joint family is enough for severance, even so many still continue as members of a joint family because still they like the institution of the joint family. Any member of a joint family may alienate his share of the family property. In the case of father and son, the entire property is liable for the debts of the father. The son is responsible for the debt of the father. He cannot escape his responsibility by saying that the debts were incurred for immoral purposes. I am certain that that sort of litigation is fast dying down. There is no question of escape now by saying that the debt was incurred by the father for immoral purposes. Then again, the law as to self-acquisition has been considerably simplified. Decisions of the Privy Council have made it quite clear that if a person acquires property, he can keep it for himself. Therefore the plea that I would make to my friend, the hon. Law Minister is that this institution still obtains. It may break up in the course of the next fifteen, thirty or fifty years. With the change in the law of marriage and other things, it may break up. But my whole point is, without reference to the will of the people, without reference to their consent, without taking into account the general consciousness of the people, why undertake this legislation? You may think that I am a kind of ancient fellow who does not understand these things. I do want that this country should move with the times, but my plea is you should first ascertain the will of the people. It may be argued, "All right, so far as agricultural property is concerned, we will not touch it, but we will make a change in regard to non-agricultural property." It is not easy to make a distinction

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in matters of this kind between one kind of property and another kind of property. Once you change the law in regard to non-agricultural property, a change in the law in regard to agricultural property must necessarily follow. Though in the matter of distribution of legislative power between the Union and the States for taxation purposes, a distinction is maintained between agricultural and non-agricultural property, it is an accident only that certain power is given to the provinces and certain power is given to the Centre, and it cannot be denied that Hindu law of succession is single and entire. Succession is not a truncated affair. Succession cannot be split up. Therefore when you consider the question, you should consider it in all these aspects both in regard to agricultural property and in regard to non-agricultural property and you should address yourself to the question whether in the larger interests of society, the time has come for a revolutionary change in the family system. I request my hon. Friend, the Law Minister to consider the question why certain chapters of the Bill should not be postponed.

Sir, I just want to deal with another aspect of the question, namely the rights of succession of sons and daughters in regard to succession proper. I have got a special claim to speak on that behalf as I am a father of both daughters and sons and I repeat that. In fact the majority is on the woman side, four daughters and three boys. Therefore, I have a special claim to speak on this subject (*Hear, hear*). Apart from what little I know as a lawyer, I have a special claim to speak as a father of daughters and of sons. Now I want you to look at the general set up of the Hindu family in dealing with this problem. If three sons find it difficult, you say, to live together and to own property in common how can you expect the daughters married to different people, may be people belonging to different castes or communities to carry on joint cultivation in villages. Under those circumstances, is it in the larger interests of the country that this property of the father as well as of the son be divided up equally between sons and daughters without any question of difference? If it is a question of justice, if it is a question of equality, if it is a question of theoretical equality, I have nothing to say against it, but law is not logical—it does not mean that it is always illogical—but it has to take into account the social strata of society, the consciousness of the community, its effect upon the family life and other factors. Therefore, you have not a clean slate to write on. Therefore, let us take what happens in a Hindu family. Mr. Santhanam looks with equanimity from Delhi. If any marriage takes place in a brother's house, the sister and the daughter occupy the most important part. It is regarded as a father's house. The son looks upon the family house as his house. Every one of us know what an important place the sister and the daughter occupies in the household. (*Hear, hear*). If the mother and father sit together for the *harathi*, it is the daughter, it is the sister that brings it and you give the present to the daughters and the sisters on that occasion. After all we are all Hindus; you cannot forget that. The very first person who receives the present will be the sister or the daughter in the household. The second thing is that no marriage can go through in any Hindu household unless provision is made for presents being made to the daughters and to the sisters. Again even though, women who may not care to bear children may not appreciate it—daughters of the family are certainly cared for on every occasion such as *simanta* or on occasions of first confinement and second confinement. A girl generally goes to the father's house or to the brother's house and it is only after getting two or three children that the girl does not go to the father's or brother's house, and this is Hindu life to-day. It is not the life in Delhi, it is not the life in Calcutta, it is not the life in Madras that is to be the guiding factor in these matters. It is the normal ordinary life in every village, in the whole of India. (*hear, hear*).

Therefore, I would ask you most respectfully the Members of this House, though I am addressing Mr. Deputy-Speaker, to take these factors into consideration. The Bible said "I shall set father against father, son against son and brother against brother" or some such thing, but let not legislation result in a feud between the members of the family, an unnecessary feud between the members of the family. A certain amount of bickering, a certain feud is inevitable, so long as property is there.

Sankara said that property is the soul of strife in our country and that is inevitable, but let us not give an impetus to it by stating that I shall set brother against brother, a sister against the brother, the brother against the sister and in that way mould the family life of the India at present. The time may come when each daughter may arrange for her marriage after they attain their maturity. Many of the girls look to their brothers for their marriage. Hardly a week passes when a brother or a father does not come and ask for a little help in regard to a marriage. It may be that I am old-fashioned to consider such requests, but that is Hindu life. I am supposed to be educated in English ways of life but what would you think of other people who are not so educated as myself? You may be more advanced, I may be less advanced, but I still claim that I am born of the Indian soil and my ideas are rooted in the Indian soil, and therefore, I plead for the retention of these great virtues which have characterized our Indian life (*Hear, hear*). I do not want to go against the modern trends of thought or the modern ideas of progress, but at the same time while it is our duty to keep in touch with the currents of national life, with the social currents at present working, there is no use our imagining that we represent the whole of India. I may tell you even among educated women, all of them do not think alike and even women who are in the legislatures do not think alike with some other educated ladies who are members of respectable households; they differ in some respects.

Shrimati Renunka Ray (West Bengal: General): Are our households not respectable?

Shri Alladi Krishnaswami Ayyar: They are very respectable. I am glad that you have interrupted. I am accustomed to interruption and I may tell you they are quite as respectable, though they might be a little conservative,—as some of those people who are very respectable and who have advanced ideas in these matters. I have given my views and I certainly refuse to believe I am not a respectable man; I am at least as respectable as others, but my ways of life, my way of thinking, my attitude to these questions is different from those equally respectable because I am cast in a different mould. For example, I have the greatest respect for our Prime Minister and on certain questions I yield to him, but at the same time I do not look at questions with the same glasses as my hon. friend, my esteemed friend, if I may call the Prime Minister my very esteemed friend. It is merely a mode of approach.

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): What is your actual proposal?

Pandit Lakshmi Kanta Maitra: He is giving his proposals in an excellent way.

Shri Alladi Krishnaswami Ayyar: I do not fight shy of that. The question I have been put is in regard to un-married daughters whether anykind of special provision may be made either for marriage or a special portion may be set apart so far as the marriage of girls is concerned. The law may provide that the daughters will take the heritage of the mothers and the sons will take the heritage of the fathers. So far as daughters are concerned, I am quite willing to and quite anxious that as liberal and as obligatory a provision

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be made for the girls who are un-married. I have absolutely no difficulty in that matter. That is my proposal. It may be worth anything, it may not be worth anything, but that is my proposal.

An Honourable Member: What about the money from the mother?

Shri Alladi Krishnaswami Ayyar: There is no use speaking about that. You take a census of the people who pay income-tax in this country? They are not many. This is a poverty stricken country. So there is no use of saying that that the mother has no property. Many are poor. They may have no property, but they cannot get away from social obligations. Those who have property may divide their property, but that may have repercussions upon the people who have no property, or very little property, but at the same time who are quite sensitive to the social and family obligations. Therefore in any step that you take, you have to see that the social obligations are not retarded. That is the plea I make so far as this is concerned.

In regard to the institution of joint family property, I differ from my friend the hon. Dr. Ambedkar. It is seldom I differ from him. And I am often influenced by him, and have occasionally influenced him. Therefore, I have no doubt that he will pay heed to some of the criticisms which those of my persuasion have offered. He may look obstinate, but there is none who yields to reason more than my friend Dr. Ambedkar. I know him very well and it has been a great asset to me; I mean my close acquaintance with him these three years. Well, that is my view, so far the institution of joint family and the rights of equal succession of sons and daughters is concerned.

The next aspect is with regard to *Stridhana* property, and on that, in so far as you remove all restrictions on the power of alienation, I am at one with the House, that is with the other Members of the House. This has merely led to unnecessary litigation, the reversionary filing suits for the declaration that alienations by the widow are invalid, going to this court and that court, and all sorts of evidence being let in. If only in the interest of unnecessary litigation being avoided, I am for the widow being given absolute powers of disposition during her life-time. But from that it does not necessarily follow that the course of devolution must be the same with regard to every kind of *Stridhanam* property. You call it *Stridhanam* and then begin to attach certain consequences in the matter of succession. Once you make it absolute property, why not it descend to the heirs? That is the question. I am willing to put the question to ninety nine Hindus I meet, "Here is a property devolving upon the widow from her husband. It is absolute property, and after her death it is to go to her father and mother, in preference to the father and mother of the man whose property has devolved upon the widow." I put that question. You may take a referendum in any part of the country and I am quite clear what the result of that referendum will be. And I challenge any Member to say in this House that the referendum will be other than what I feel. Therefore, as a lawyer, if you put me the question, can you have two kinds of absolute properties, one kind descending in one way and another kind descending in another way, and ask me, why not in the interest of uniformity, give the same rule of succession for one kind of property and the other kind of property? Then I say that you need not sacrifice social sentiments at the altar of logicity. Law need not always be logical. Law need not necessarily be logical. Logic is not the essence of law.

The Honourable Shri K. Santhanam: Should law be generally illogical?

Shri Alladi Krishnaswami Ayyar: My answer to my friend Mr. Santhanam is that law need not necessarily be logical. That is so because law is the product of social evolution and social adjustment, and therefore how can it always be

logical? Society does not move according to a particular standard or plan. Unfortunately society except in a communistic society, does not move in that way. Therefore, under these circumstances, you take the average sentiment of the Hindu into consideration. There is no use of saying that it is illogical to draw a distinction between one kind of *stridhana* and another. Why should the *Stridhana* be allowed again to go to the husband's kindred? Why not it go to her heirs? In the very Bill that is the provision that is made. Therefore, so far as woman's property is concerned, I think that is a point which may receive the consideration of the hon. Law Minister, before the Bill becomes law, consistent with the sentiments and the general feeling among the people. Until recently the widow did not have the power of disposition. The question is whether on the theory that each person when he inherits property, he or she must become the stock of descent, inherited property of every description must be treated alike. That is my plea with regard to woman's property. Throughout I have refrained from resting on logic.

And lastly, Sir, I may mention, if I may, a few words with regard to distant heirs. I feel that the present provisions are a great improvement upon the previous Bill. It has drawn upon certain principles of *Dayabhaga* and it has also brought in the other systems. And I think, so far as distant heirs are concerned, the Bill as it stands is a great improvement upon the original Bill, and if there is any defect here and there, they can be removed easily.

The chapter on guardianship, maintenance, and the other chapters are conceived in a very liberal and progressive spirit, and I think they deserve the whole-hearted support of the Assembly, though it may be that here and there, they may require some modification, but that can be easily done at a later stage of these proceedings. Therefore, in the full confidence that the hon. Law Minister as well as the Prime Minister will be responsive to public criticism, while taking into account the progressive tendencies of the age, I move for the second reading of the Bill and I support the motion moved by the hon. Dr. Ambedkar.

Dr. P. K. Sen (Bihar: General): Sir, I am quite conscious that I must be brief, as there is a great pressure upon the time of the House. At the same time there are certain aspects which have been raised, even by my predecessor, my esteemed friend, Shri Alladi Krishnaswami Ayyar, which do call for some comment. He has followed the order of the Bill, as a matter of fact, and taken the law of marriage first of all. I must confess that I could not exactly follow him as to whether he gave his opinion in favour or against it. As a matter of fact he said in one part of his speech, while dealing with that section, that he had no definite opinion on the subject. So far as the law of marriage and divorce is concerned I do feel that one must be definite. There is no part of law which calls for definiteness more than the law of marriage, because, it affects not only the parties who solemnise the marriage between themselves.....

Shri Alladi Krishnaswami Ayyar: Sir, I do not know if I had made myself clear. What I said was that if we had had a clean slate to write on we might do otherwise but having regard to the previous step taken by this House and the legislation undertaken, there cannot be any serious objection to the portion relating to marriage excepting in regard to one or two matters, which I mentioned in the course of my address.

Dr. P. K. Sen: Except in relation to sacramental marriage, I suppose.

As I was observing we have to see that in every respect the law of marriage should be perfectly definite and explicit and there should be no ambiguity at all about it and it is for that reason I take it that the Bill contemplates that even when the marriage has taken place according to the sacramental form there may be objections raised with regard to it. It may be urged that there had been

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some irregularity, some omission, some particular form of ceremony not having been observed. Take, for instance, *saptapadi*. Everybody knows that *Saptapadi* is an essential factor. Not until the seven steps have been taken can the marriage be said to be valid. In fact, all manner of irregularities may be urged as objections with regard to the marriage. It is for that reason that it has been provided in the Bill that even when a marriage has been solemnised according to certain sacramental form, it is open to a party (it is only permissive) to go and have the marriage registered, so that there may be no objection raised later on with regard to its validity. This is, I submit, absolutely essential, because it is not only the two parties who solemnised the marriage between themselves who are affected but it is the next generation and the next generation, indeed, generations unborn, that are affected by it. The whole question of legitimacy depends upon it. Therefore I submit that whatever may be the irregularity, there must be some method by means of which the legitimacy of children and their rights of inheritance may be protected and may not be left in uncertainty. There can be no difficulty whatsoever: there is some way of ascertaining what the necessary forms are which have to be observed in order to make a sacramental marriage valid. That too has been provided for in the Bill in the form, *viz.*, that in any particular area it may be found that a particular set of ceremonies is regarded as essential to the validity of the marriage: in that event those ceremonies will be regarded as validating the marriage. Nevertheless, it may so come to pass that some of these ceremonies have been performed or it may be that the performance of those ceremonies were not exactly in the manner prescribed. In that event what is to happen? Is the married couple then to remain in the position which would make their children illegitimate in the eye of law? It is for this reason only that it has been made optional for the parties to have their marriage registered in order to get it validated.

I come to the next question about public opinion and about their being a large body of the public not having been sufficiently apprised of the contents of the Bill. The question has been raised often and often here, why hurry, why not wait for a year or two or three years? We have already waited long enough. Why should we not wait for another period? It is not a question of eleven years which the Hindu Code has taken, nor is it a question of two years which have elapsed since. This has been mooted from the last century.

The House will be pleased to recall Act III of 1872. The Special Marriage Act which was first placed before the legislature was in 1868 by Sir Henry Maine at the instance and on the initiative of Keshub Chunder Sen, Bengal's great social reformer. As a matter of fact, to go further back, in the fifties of the last century, the Widow Re-marriage Bill was on the legislative anvil. The great Ishwar Chunder Vidyasagar was exerting a great influence on the public mind to get their support for Hindu widow remarriage. It was at that time that a remarkable petition signed by four hundred men was put up before the legislature, in which they said that although they were orthodox Hindus they did not believe in restricting themselves to a particular caste, they believed in inter-caste marriage, they believed in monogamy, they believed in certain ceremonies being essential for the purpose of observing pure Hinduism but that they wanted to eschew other ceremonies and that, therefore, they wanted the help of the legislature to pass a comprehensive Bill, not only the Hindu Widow Remarriage Bill but a Hindu Marriage Bill, in which provision would be made for inter-caste marriage, for adult marriage and for marriage solemnised with certain ceremonies only to which they did not take exception, and not every ceremony which at that time was considered to be obligatory. This was somewhere about 1856 and it was a most representative body that put forward this petition. Among those notable public men who signed the petition were people like Peary Chand Mitter, Radha Nath Sikdar, Abhoy Charan Mullik, and Rasik

Krishna Mullik. They had nothing whatever to do with the Brahmo Samaj: they were orthodox Hindus. Side by side with this organisation there were all the activities of the Brahmo Samaj going on. The Brahmos had already solemnised inter-caste marriages, because they believed that "Right was right: to follow right were wisdom in scorn of consequence." They did not care what the law was. They said that they would break down caste notwithstanding the fact that there might be difficulties regarding legal validity. Later on they thought that this state of affairs should be removed for the sake of posterity, for the sake of the children and it was therefore that Sir Henry Maine introduced a Bill which ultimately emerged as the Special Marriage Act of 1872. That this Act has catered not only for the Brahmo community but for a much larger body is testified to by the fact that after the passing of the Act several amendments have been sought in order to make it applicable to other sections and in order also to obviate certain objections to particular sections of the Act. In doing so these people at different times acted as the representatives of the conscience of the society—the minority conscience, let us say. But the minority has a conscience; and the social conscience of the minority also must be respected. In every country we find that it is the minority conscience which has always come to the help of law for the purpose of vindicating its own view. Well, Sir, today we do not know which section is in the minority and which section in the majority. But it goes without saying that in a democratic form of government all sections of people must necessarily have their conscience vindicated, and their ways of life and thought, at least so far as fundamental points are concerned, respected. In that view the question that really has to be solved by us is this: Is this Bill in any particular respect imposing itself upon the conscience of any particular section? (*Babu Ramnarayan Singh*: Yes.) And by that will its excellence or otherwise be tested.

Now, if we come to the first part of the Bill, so far as the question relating to marriage, divorce, judicial separation, guardianship, alimony, custody of children, and so on, is concerned, so far as I can understand it cannot possibly be contended that it is being thrust upon anyone. After all it is only in those cases where you find that divorce has become absolutely unavoidable that the provision will be utilised. And there are such cases. There can be no question whatsoever about that. There are cases where continuance of the marriage bond will really lead to misery from the point of view of both parties, will lead to disintegration of the family. It is only there that divorce can possibly come on.

Sjt. Rohini Kumar Chaudhuri (Assam: General): May I ask if the subsequent marriages become happy? They become worse.

Shri L. Krishnaswami Bharathi (Madras: General): It depends upon the lady you marry!

Dr. P. K. Sen: I am not going into that question because in that case it would be a matter of statistics as to how many cases have really become happy or how many cases have turned out unhappy. That is not the test. The test is unavoidability. Is there anyone who can possibly say that in no circumstances should there be a separation at all? There may be circumstances imaginable where there should not be separation. It is for us to sit down with good will and mutual understanding, and discuss all these points and find out whether it is going to be compulsory upon any particular party or not. There is no compulsion at all here. It is perfectly optional. If you find that it has become impossible to carry on you can go to a court of law. The court of law will go into the matter, find out whether all the requisites of a divorce or a dissolution of marriage are present and then issue a *decree nisi*, or whatever it may be. But that does not necessarily mean that divorce will go on multiplying from day to day. That depends entirely on the temperament of the people. And

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I feel bound to say that because it has taken a particular course in America or England or in other foreign countries, in India also it should take the same course—that is an impossible conclusion. (*Pandit Lakshmi Kanta Maitra*: It is the same institution). You have to take the whole structure, the traditional structure in India. I do not believe at all that in India the same result will follow.

Pandit Lakshmi Kanta Maitra: Worse.

An Honourable Member: Is it not time to rise for Lunch?

Mr. Deputy-Speaker: I think the hon. Member is likely to conclude soon.

Dr. P. K. Sen: I am trying my best to conclude soon, but I have just begun.

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

*The Assembly re-assembled after Lunch at Half Past Two of the Clock.
Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.*

Dr. P. K. Sen: Sir, when this House rose for mid-day recess, I was on the point of the permissive nature of the provisions regarding divorce and allied matters. The question that was put to me in the course of the debate was why there had been so many divorces in other countries.

Shri Mahavir Tyagi (U.P.: General): On a point of order. I find only the hon. Minister of State for Transport and Railways sitting on the Government Benches. The Bill under discussion neither deals with Railways nor with Transport. Will you be kind enough to call the hon. Law Minister, Sir?

Mr. Deputy-Speaker: I am sure the Law Minister will be here soon. Till then, the other Minister who is here will take notes.

Shri Ajit Prasad Jain (U.P.: General): This is almost a contempt of the House.

Mr. Deputy-Speaker: I have got chits sent to me by no less than 36 members so far.

Shri M. Tirumala Rao (Madras: General): Some have not sent our names. Our chits are lying here.

Shri Mahavir Tyagi: And many have been waiting to catch your eye. They have not sent chits.

Mr. Deputy-Speaker: So the position is that besides these 36 there are others also trying to catch my eye. As the position stands at present, Government had fixed only yesterday and today for this Bill. I do not know the state of Government work. I do not want to stifle discussion, but at this rate I do not think we can go on. Therefore, I suggest to hon. Members to limit their speeches, as far as possible, to fifteen minutes.

An Honourable Member: Impossible. You suggest to Government to extend the time.

Shri R. K. Sidhva (C. P. and Berar: General): Such members as are hopeful of finishing their speeches within five or ten minutes should be given preference. There are many such members, I know.

Shri L. Krishnaswami Bharathi: But will they keep to their assurance? That is the point.

Shri R. K. Sidhva: I give a definite assurance.

Shri Biswanath Das (Orissa: General): May I just bring to your notice, Mr. Deputy-Speaker, that the hon. Speaker had given an assurance to this House that he would give full scope for discussion of this motion and it will be unfortunate if you allow only ten or fifteen minutes for a speaker. It is something absolutely different from an ordinary Bill. It concerns the life and the economic and social existence of crores of people. Under these circumstances, I would beg of you to stick to the assurance given by the hon. Speaker.

Shri L. Krishnaswami Bharathi: He is the Speaker. He can now decide.

Mr. Deputy-Speaker: It is unfortunate that the Speaker is not here in his seat. But I do not want to stifle the discussion, but I am only suggesting a time-limit so that all Members who want to take part in the discussion may have an opportunity. I leave it to the good sense of the hon. Members themselves. Fifteen minutes is not an inviolable limit. One minute above or one minute below may not be very bad. But beyond that I am afraid even if the Government were willing—I do not know whether they are willing or not—to extend the discussion by a day, it would be impossible, having regard to the number of speakers who want to speak, that everyone will have a chance.

Pandit Balkrishna Sharma (U.P.: General): Then keep it to the next session.

Mr. Deputy-Speaker: It is not in my hands.

Shri S. Nagappa (Madras: General): Why not sit for one or two hours longer?

Mr. Deputy-Speaker: At present the Members who can finish their speeches within fifteen minutes can do so, but in cases where individual Members consider that they must have more time, they can have more time.

Shri M. Tirumala Rao: You can consider the merits of a speech, and if many arguments are repeated, you can ask the speaker not to repeat the arguments.

Mr. Deputy-Speaker: Very well, then, Dr. Sen.

Shri H. J. Khandekar (C. P. and Berar: General): There are only 2½ hours more. Only ten speakers will be able to speak even if each speaks for fifteen minutes. What about the others who want to speak on the Bill? I request you to request Government to extend the debate by a day or two. This is such an important measure that the eyes of the whole nation are focussed upon it. We must have full discussion over it and then only pass it, in whatever form it is agreed to.

Mr. Deputy-Speaker: I am sure the proceedings of this House and the suggestions made by hon. Members will be communicated to and taken notice of by Government. Dr. Sen may continue his speech.

Dr. P. K. Sen: Sir, I quite realize that brevity is the soul of wit, but there are occasions when brevity is the soul of unwisdom, because I shall not be able to make things clear at all and therefore it will not benefit anybody at all if the House were to hear a discourse which is inconclusive and obscure. I shall therefore try to touch only on the fundamental points and not enter into details at all.

The question that I was last addressing this House on was whether or not by giving permission for divorce this country will not be plunging itself into a large number of divorce cases like other countries. My answer to that question was—and is—that the cases for divorce will depend entirely upon the quality of the moral values that a country has. A society may be so constructed that only in absolutely unavoidable and necessary cases would the parties seek a

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divorce and that there would be inherently a dislike, a distaste, a contempt for divorce where there is no occasion for it and where evidence is really fabricated for the purpose of establishing that there are reasons for divorce. In this country the experiment has been tried in Baroda and in some parts of South India, where there is and there has been divorce for a long time past, but I am told there have been only three cases so far in Baroda and these three cases during twenty years. I submit, again, that it is the social atmosphere and the moral values prevalent in the particular society that determine the number of divorce cases. Therefore, it is not the law that makes the society. The law only gives sanction to certain cases where it is necessary to give sanction for divorce. In this part of the Bill which deals with marriage law there are four characteristics. The first is: inter-marriage has been allowed. The second is that there is prescription for divorce. There is, thirdly, prescription for monogamy. Now all these are present in Act III of 1872 and, therefore, it is not the Hindu Code which has raised these points for the first time. It was in the fifties of the last century, as I have said, that the agitation arose and ever since then the agitation has been going on. The crusade against caste was no doubt first led by the Brahmo Samaj under Keshub Chunder Sen. The Brahmos at that time suffered persecution, ex-communication and ignominy of every description. Today we recognise that caste shall go and therefore all these provisions that are laid down here in this Bill relating to intercaste marriage need not raise any opposition at all. There is no doubt whatsoever that there is a very large body—if not an overwhelming body—of public opinion in favour of abolition of caste. Otherwise, what are all these provisions that we have laid down in the Constitution? Caste shall go. If we take that position then there is nothing objectionable so far as those provisions are concerned which relate to intercaste marriage.

The same consideration applies to monogamy. I do not know whether there is any public opinion now in favour of bigamy or polygamy. There may be individual cases; but that is quite different. The whole body of public opinion now, I submit confidently, is in favour of monogamy. Therefore, there is nothing objectionable, so far as that is concerned in the present Bill. And, as I have said, permission for divorce cannot possibly raise any difficulty because, after all a permissive provision must necessarily be there for those unfortunate cases where divorce is called for.

Proceeding, Sir, to the next point as to why there should be any change at all (that was the point on which I was) it has been said that there must be a strict adherence to *shastric* law and that there should be no departure whatsoever from it. For hours this discussion has been carried on on the floor of this House. It has been contended that *shastric* law is absolutely final, inviolate and inviolable. You cannot change it. I should like to know what *shastric* law means. As a matter of fact, in our *shastras* there is always provision for change and there has always been change. Otherwise what is the meaning of these numerous *smritis*. We have it in Manu the well known injunction that there are four sources, four norms, of conduct laid down:

श्रुतिः स्मृतिः सदाचारः स्वस्य च प्रियमात्मनः ।

एतच्चतुर्विधं प्राहुः सहाष्टमस्य लक्षणं ॥

Which being translated means *Shruti*, *Smriti*, the usages established by righteous men and the satisfaction of one's own inner self—these furnish the four standards or norms of conduct. These four norms of conduct include within them the inner satisfaction of the soul, the conscience by which, I take it is meant not individual conscience only, but social conscience also. The social conscience of the age in which we live has got to be respected and that is one of the standards by which our conduct, our *dharma* is to be ascertained. That is one of the standards by which law must be laid down and it is on

this principle that all along, the law, the so-called *shastric* law, has changed and changed and changed. My hon. friend, the Minister of Law said in his opening speech that if you go to *Parasara Smriti* or *Narada Smriti* you find there provision for widow re-marriage, and provision for very many other things which may be called revolutionary. How did they ever come to it? How did they get beyond the barriers, as it was, and break through them and start upon something which was revolutionary? It was because according to the highest injunctions laid down, there are not only *Shruti* and *Smriti* but other sources also. You have to take the conduct of the righteous and the pious,—those who know the way of life that leads unto self-realization—and it is those people who laid down the norms of conduct. You have to follow those. They are not *shastric*. They are not necessarily to be ascribed to any particular *Shruti* or *Smriti*, but those are the ways of right living that have been laid down definitely for the purpose of regulating our conduct—individual as well as social. If that be so, if that is the way in which the law must evolve itself, then necessarily where we find that there is a strong public opinion, where the conscience of society or a particular section of society, the minority section, let us say, dictates that a particular way of life should be sanctioned by law, law comes forward to the rescue and lays down that it shall be so. If that be our standard, then can we possibly at this moment say that there shall be no change at all? Can we possibly assert that our law, our *shastric* law, has been stationary? If it is inviolate and inviolable, if it is unalterable and inexorable, then there will be no progress and it will be a poor compliment to pay to our Indian law-givers to say that law has been stationary. On the contrary, it is time today to muster up courage and to say that the views of no particular section, whether minority or majority, should be trampled upon, that if there are strong opinions held in regard to a particular point then the law must come forward to give permission for that.

I pass next, Sir, to the other fundamental points. What is the other main objection raised with regard to this Bill. It is on the question of property—the *Mitakshara* and the *Dayabhaga*. Is it possible at this moment, let us ask ourselves seriously, to raise this question? The joint family system had its virtues; it had its glories in the past. Nobody can deny that. But I have been under the impression that of late it is the tyranny of the joint family system which has appeared most obnoxious to a very large number of people. They feel that the earning people in the family are sucked dry by the indolent ones. There are people who do not want to go forth and earn at all because there is a family behind them, and they think, "What is the use of our taking any trouble for earning when there is the family to support us?" And those members of the family who by the sweat of their brow earn something, it is their income that is sucked dry by others who are indolent and who are also in every way extravagant.

Dr. P. S. Deshmukh (C. P. and Berar: General): Have they ever complained, Sir?

Shri L. Krishnaswami Bharathi: Yes, they do. Complaints are inherent in the situation.

Dr. P. K. Sen: If their complaint could be heard, then of course it will be a different matter, but if they were people in the family, then there would be no opportunity whatsoever, to make a complaint. The only way in which they can possibly complain is now laid down namely, by expression of intention to separate. Now, what is the actual position? Howsoever strong the family integrity may be, any individual member can come forward and say, I intend to separate, and that expression of intention will instantaneously effect separation in the eye of the law. Where is the integrity of the family then? What then has the *Mitakshara* family to do? According to judicial decisions now, it has come down to this that the slightest intention to effect separation and the expression of that intention will effect that separation. In that case I do submit that it is

[Dr. P. K. Sen]

too late in the day to say that the joint family is a huge institution which remains intact. It is tumbling down and there can be no doubt whatsoever that with the effort of man it cannot possibly be protected any longer. People want individual liberty now. Everybody who earns wants to earn and also go his own way. He does not want to be fettered by other members of the family. It is individual freedom which is now their aim and object. This cry has been raised from the earliest times. "The individual withers and the State is more and more." That is a complaint which has been heard for some time past. Today also we feel that in our society the rule of the majority, the rule of society, is predominant, but nobody wants this predominance any longer. The individual now wants to go off at a tangent. He says, I do not want to be governed by the family. I want to earn my freedom and I want to go my own way. I appeal to every individual Member of this House to ask himself if that is not the spirit of the modern times, and if that is the spirit, then where are we? Where is the advantage in trying to bolster up an edifice that could not possibly exist any more. Therefore this great difference which is being drawn between *Mitakshara* and *Dayabhaga* is practically gone. It may be that when we sit round a table in perfect amity and goodwill, in perfect understanding of each other, we may be able to iron out all these differences and we may be able to arrive at a very satisfactory solution without hurting the instincts of any particular section, and I do hope that that will be so. I do not want to go into details, but I just want to point out that this is the line upon which our discussions may proceed in future.

Then, Sir, take the other details. Practically in the matter of inheritance or in the matter of succession, there is nothing upon which controversy rages except on the daughter's share. All the other things are more or less now things of the past. Legislation has taken place, numerous judicial decisions have been passed whereby rights have been given to all other members of the family, those that claimed them. The only thing upon which controversy centres now is about the daughter's share. It may be half the share that the son gets, it may be an equal share with the son, it may be any other share that may be decided upon by everybody sitting round a table. I am perfectly confident that with goodwill and mutual understanding, something satisfactory may be evolved in this line. It is not that every individual member of the Select Committee is bound down by its decisions. We are all free to exercise our own views. I frankly admit that there are certain things which I do not like. There may be other members who say that there are certain aspects of the Bill which do not commend themselves to them. Therefore all these differences have to a certain extent to be ironed out by mutual discussion, but apart from that, the fundamental question is whether the daughter has to get any share at all. Now when it is said that the daughter cannot get a share at all, then I do think—and I have no hesitation whatsoever in expressing my views freely and frankly.—I do think that it is the same old prejudice against the female members of the family that dictates this objection.

Shri L. Krishnaswami Bharathi: Quite right. That is the real point.

Dr. P. K. Sen: We may hold our women members in high esteem. No doubt it is often said that the ladies of every family are angels of grace, that they are ministering angels. That is perfectly true, but do we do all that is needed, all that is called for, towards them? Do we do all that is wanted from the men-folk to the women folk in our families? Let us be perfectly sincere and frank about these things. There is a great deal that has to be done for our women-folk. Women today want their place in society. Continuing to do their duty by the family and continuing to be ministering angels of the family, they have also some other work to do. They have to take an interest in public affairs. They have to take an interest in social organisations. Their presence is indispensably necessary in many organisations which are being set up today. Therefore we cannot possibly have a framework of society in which such women could not

possibly exist. They must always be the ministering angels of the men-folk, that is to say, looking after their physical comforts and welfare, and do nothing so far as their higher aims and aspirations are concerned. But they have a function to fulfil in society. In the society of independent India, women have a very large place to fill in every organisation, in every movement. That being so, we must set them free and there is nothing that is wanted more than economic freedom. (*Hear, hear*). There are many cases in which lives are blasted because they have got to be dependent upon some male member of the family for their very existence. Therefore, the question of their economic freedom has a place in the affairs of today.

Let us not be absolutely oblivious of that fact. If we want to give economic freedom, then there is no reason whatsoever why we should turn away and say: "Oh a daughter, she cannot have a share, she will remain a ministering angel of the family" by which it is meant that she will always be a dependent there; and if she is a widow, she will be only looking after the comforts of other people and will not be able to do any other service to the family or to the society or to the nation at large. Well, Sir, I do not propose to go further, because it will take a very long time and I know that I shall then be trespassing upon the time of others. But a good deal has been said, a great deal of discussion has taken place upon the fundamentals. When I contemplate all these discussions that have taken place, I am firmly convinced that if after this debate, we can sit around a table and we can bring ourselves to consider all these details in a spirit of perfect goodwill and understanding, we shall be able to attain a solution. The minor points that trouble us are many, it may be, but their solution is not so difficult. It is the fundamentals upon which we have to concentrate our attention and when we do so, I think our path is clear.

श्रीमती कमला चौधरी: माननीय उपाध्यक्ष महोदय, इस हिन्दु कोड बिल के सम्बन्ध में कुछ शब्द कहने से पूर्व मैं माननीय मन्त्री अम्बेडकर साहब को इस बिल के रखने के लिये बधाई देना चाहती हूँ। मेरा ऐसा विचार है कि यह बिल समय के अनुकूल इस हाउस के सामने आया है। आज ज़माने की जो रफ़्तार है, जो समय की माँग है उसके बिल्कुल अनुकूल है। हालाँकि इसका विरोध धर्म, संस्कृति और तरह तरह के नाम ले कर किया जा रहा है और विरोध के प्रचार में भी हम तरह तरह की बातें इसके विरोध में सुनते हैं, लेकिन मेरा अपना यह विचार है कि महिला समाज के लिये, हमारे भारतीय समाज की प्रगति के लिये, यह बिल एक रामबाण की तरह साबित होगा और इससे हमारे भारतीय महिला समाज का, जो आज शताब्दियों से अधःपतन को प्राप्त हो रहा है, कल्याण होगा। और आगे आने वाला भारतीय महिला समाज भी इस बिल के लिये भविष्य में, अगर यह इस असेम्बली में पास हो जाता है, हमारे मन्त्री महोदय का और इस हाउस के मेम्बरों का आभार मानता रहेगा।

जो लोग इसके विरोध में हैं उनका कहना है कि इस बिल से हमारे धर्म की हानि है, और हिन्दु संस्कृति की हानि है। यह बात मुझे किसी तरह भी दिखलाई नहीं देती। यह दूसरी बात है कि हमारे देशवासियों का दिमाग, हमारा दिल, कुछ इस तरह का बना हुआ है कि धर्म के नाम पर कोई भी बात कही जाए तो वह यहाँ

[श्रीमती कमला चौधरी]

के व्यक्तियों को बहुत अपील करती है। इसी धर्म के नाम पर किस प्रकार हमारे यहां साम्प्रदायिक भावना को प्रोत्साहन दिया गया। इसी धर्म के नाम पर हमन अपने राष्ट्रपिता महात्मा गांधी का खून होते तक देखा है।

इसी प्रकार मैं देखती हूं कि इस बिल के विरोध में भी धर्म की दुहाई देकर, भारतीय संस्कृति की दुहाई देकर, उन व्यक्तियों, हमारी उन बहिनों को, जो कि बेचारी अभी यह भी नहीं समझ सकतीं कि कानून क्या चीज है, यह असेम्बली किस प्रकार बनी हुई है, जो कि हमारे विधान में उनको दिया गया जो मताधिकार है उसको भी नहीं समझ सकतीं, यह कह कर वरगलाया जाता है और इस तरह की पुकार मचाई जाती है कि देश की बहुत बड़ी संख्या स्त्रियों की और एक बहुत बड़ी संख्या पुरुषों की इस प्रकार की है जो इस बिल का विरोध करती है। लेकिन जहां तक मेरी तुच्छ बुद्धि पहुंच सकी है मुझे इस बिल में कोई भी बात किसी भी प्रकार ऐसी नहीं मालूम होती जो कि हमारे धर्म के या हमारी भारतीय संस्कृति के विरुद्ध हो।

इस बिल के एक अंग में ऐसी व्याख्या की गई है कि आज जो हिन्दु धर्मावलम्बी पुरुषों को एक स्त्री के होते हुये एक दो और अनेक विवाह करने का अधिकार है, इसका विरोध किया गया है। उसकी अनुमति नहीं है, उस पर प्रतिबन्ध लगाया गया है। मैं बहुत नम्रतापूर्वक कहना चाहूंगी कि मुझे तो ऐसा मालूम होता है कि कहीं ऐसा तो नहीं है कि बड़ी संख्या में जो आज हमारे भाई इस बिल का विरोध करते हैं, वह शायद इसी लिये करते हों कि उनके ऊपर यह एक प्रतिबन्ध लगाया जा रहा है कि एक स्त्री के होते हुये वह अनेक विवाह नहीं कर सकेंगे। लेकिन धर्म के विरुद्ध इसमें भी मुझे कोई बात नहीं मालूम होती क्योंकि हमारे धार्मिक ग्रन्थ और हमारे प्राचीन साहित्य को देखने से मुझे ऐसा ही मालूम होता है कि किसी भी जमाने में, प्राचीन समय में भी, हमारे यहां बहुविवाह की प्रथा कोई अच्छी नहीं मानी गई थी। प्राचीन इतिहास उलटने से ऐसे उदाहरण तो हमको मिलते हैं कि जो राजा होता था उसको कई विवाह करने की अनुमति थी। हमारे समाज का जो ढांचा था और उसमें जो रीति रिवाज थे, जो पद्धति थी, जो परम्परा थी और जो उच्च आदर्श थे, और जिन आदर्शों को उच्च कोटि का माना जाता था, उनकी अवहेलना करते राजाओं को तो देखा जाता है, लेकिन जो मर्यादा पुरुषोत्तम हुये हैं, जिन्होंने हमारे सामने एक आदर्श रखा है, उनका एक उदाहरण मैं आपके सामने देना चाहती हूं। हमारे बाल्मीकि द्वारा लिखे महाकाव्य को देखने से, जिस महाकाव्य ने हमारी भारतीय संस्कृति की रक्षा की है और जिस पर शताब्दियों से हमारी संस्कृति अवलम्बित है, मालूम होता है कि राजा रामचन्द्र अपनी धर्मपत्नी सीता का परित्याग करने के बाद जब अश्वमेध यज्ञ करने बैठे हैं और जब पुरोहित-गण और गुरुजनों ने उनको बतलाया कि बिना स्त्री के यज्ञ सम्पूर्ण नहीं होता, उस

समय भी वह सीता की स्वर्ण प्रतिमा बना कर ही यज्ञ करते हैं, दूसरा विवाह नहीं करते। यह आदर्श हमारे सामने है, और अगर हम अपने उस महाकाव्य को उलटें तो जगह जगह हमको यह दिखाई देगा। जिस समय रामचन्द्र जी वन में रह रहे थे और शूर्पनखा ने उनसे विवाह करने की प्रार्थना की थी तो लक्ष्मण ने उसको जवाब दिया था कि रामचन्द्र अयोध्या के राजकुमार हैं और अयोध्या के राजा होने वाले हैं, वह विवाह कर भी सकते हैं, लेकिन मैं तो विवाहित व्यक्ति हूं, मैं और विवाह नहीं कर सकता। उस समय भी रामचन्द्र जी के मुख से जो हमारे महाकवि ने कहलाया है वह उसी आदर्श का प्रतिपादन करने वाला है कि बहुविवाह की प्रथा अच्छी नहीं मानी गई थी।

जो इस बिल में इस बात का प्रतिबन्ध लगाया गया है मेरी समझ में नहीं आता कि किस तरह से इससे धर्म का विरोध होता है। बल्कि जो ऊंचा आदर्श हमारे भारतीय समाज, हमारी संस्कृति में है इससे छिन्न भिन्न होगा अगर उसको प्रोत्साहन दिया गया। मैं समझती हूं कि किसी भी हिन्दु धर्मावलम्बी या किसी भी भारतीय संस्कृति पर विश्वास रखने वाले व्यक्ति के लिये एक आदर्श वस्तु है। यह जो स्त्री के लिये बड़ा भारी अन्याय है कि उसका पति अपनी धर्मपत्नी के होते हुये भी एक, दो, तीन और चार विवाह कर सकता है यह स्त्री के लिये समवेदना का विषय है और सबसे बड़ी दुःख की वस्तु है। यह एक दूसरी बात है कि शताब्दियों से हमारे यहां स्त्री समाज पर प्रतिबन्ध रहे हैं और यहां की नारियां एक प्रकार से घर की चार दीवारी के अन्दर बन्द रहती हैं। उसके सामाजिक अधिकार, उसके मानसिक अधिकार और आर्थिक अधिकारों पर प्रतिबन्ध रहता है। उसके आंखों के आंसू आंखों में ही सूख जाते हैं, मूंढ में भी नहीं आने पाते। लेकिन हमारे कवियों ने, हमारे लेखकों ने, हमारे साहित्यकारों ने इस महान दुःख का जो नारी के ऊपर होता है अच्छी तरह से चित्रण किया है। एक सौत का बड़ा दुःख जो नारी के लिये होता है उससे महान् दुःख और उसके लिये नहीं है।

आज जबकि जाग्रत युग आरम्भ हो चुका है, जबकि हमारी नारी समाज के लिये हमारे देश में इन महापुरुषों ने नारियों की कठिनाईयों का अनुभव किया और इन लोगों की कृपा से नारियों की समस्या पर भली प्रकार से विचार किया गया और समय समय पर ऐसे क्रान्तिकारी बिल इस हाउस में पास हुये। उस वक्त देश में आन्दोलन हो रहे थे और विशेषकर महात्मा गांधी जी उस समय सबल रूप में हमारे समाज में आकर खड़े हुये और उन्होंने नारी को इस स्थिति में पहुंचा दिया कि वह अपने आप खड़ी हो सकी। आज अपने अधिकारों के लिये स्वयं उसके अन्दर भावना जागी है। भविष्य में जो नारी समाज होगा वह इस तरह के अन्याय को सहन न कर सकेगा जिस तरह से कि आज तक नारी जाति सहन करती आई है। वह इस तरह की अवहेलना कभी बर्दाश्त नहीं करेंगी। इस लिये मैं समझती हूं कि यह समय अनुकूल है जो यह बिल हमारे सामने आया है। इसको इस असेम्बली में करतलध्वनि से पास होना चाहिये।

[श्रीमती कमला चौधरी]

इस बिल का बहुत प्रकार से विरोध किया जाता है। मुझ यहां पर इस तरह की बातों का सुनने का अवसर मिला है। नारी जाति के विरुद्ध गन्दी बात कही जाती है। स्त्रियों पर लांछन किया जाता है। इस तरह से नारी जाति के विरुद्ध इस तरह की बातें कह कर एक तरह से यहां पर प्रचार किया जाता है। यहां पर इस तरह का ख्याल बंध गया है कि सम्बन्ध विच्छेद, तलाक, डाइवोर्स (divorce) का जो अधिकार इस बिल में रखा गया है, उसका परिणाम यह होगा कि हमारा समाज नष्ट हो जायगा, हमारी संस्कृति नष्ट भष्ट हो जायगी। मेरी समझ में नहीं आता कि किस तरह से लोग इस तरह का विवाद उठाते हैं और किस तरह से लोग इस तरह की बातें करते हैं। लेकिन मेरी समझ में नहीं आई कि इसमें किसी तरह की सम्बन्ध विच्छेद की बात कोई भी ऐसी नहीं मिली जो नई हो जैसा कि हमारे धर्म शास्त्रों में, हमारे धार्मिक ग्रन्थों में जिस बात की इजाजत न दी हो। जितने भी कारण सम्बन्ध विच्छेद के इसमें रखे गये हैं कि सम्बन्ध विच्छेद किस प्रकार हो सकता है, किन कारणों से हो सकता है, मैं समझती हूं कि वह सभी कारण हमारे धर्म ग्रन्थों में मौजूद हैं। मैं खुद हिन्दु धर्म और भारतीय संस्कृति में विश्वास करने वाली हूं। मैं एक हिन्दु नारी हूं। नारी की महत्ता किस वस्तु में है, वह मैं जानती हूं। हमारे ऋषि और महा ऋषियों, हमारे बड़े बड़े कवियों ने बहुत दिनों से, शतान्दियों से भारतीय नारी की महिमा गाई है और उसका बहुत सुन्दर बखान किया है। मैं जानती हूं कि नारी पिण्ड की महिमा नहीं है, वह महान् त्याग की महिमा है जिसको उन्होंने गाया है। मैं समझती हूं कि वह आदर्श हमारे लिये बहुत अच्छे हैं, बहुत ऊंचे हैं। आज से नहीं, युगों से भारतीय नारी इस आदर्श पर चलती रही और उनका यह गौरव-मय इतिहास और आदर्श भारतीय संस्कृति और मानव इतिहास में कायम रहेगा।

लेकिन समाज में सभी व्यक्ति चाहे वह स्त्री हो या पुरुष, वह हर एक ऊंचे आदर्श का पालन कर सकेगा यह असम्भव बात है। महात्मा गांधी जी संसार में महा पुरुष माने गये हैं। उनके जितने आदर्श हैं वह सब हमारे सामने उन्होंने रखे लेकिन अनुयायी होते हुये भी हम स्वयं उन पर न चल सके। इसी तरह समाज की व्यवस्था है और इसी तरह संसार की व्यवस्था है। अगर यह संसार, यह हमारा भारतीय समाज पूर्णतया अपने आदर्शों का पालन करने लगे, तो मैं समझती हूं कि यह संसार, संसार न रह कर स्वर्ग बन जाय।

जब कोई बड़ा आदर्श रखा जाता है तो उसका वातावरण बनाने के लिये, उसको उत्पन्न करने वाली बहुत तरह की बातें की जाती हैं। जिस तरह से हमारे यहां हिन्दुओं की विवाह पद्धति है। जिस समय विवाह होता है उस समय पण्डित

लोग इस तरह की परिभाषा देते हैं कि सम्बन्ध इतना अटूट है, ऐसा अमर है कि जन्म-जन्मान्तर तक यह सम्बन्ध अटूट रहेगा। मेरा इसमें विश्वास नहीं है। क्योंकि मैं जानती हूं कि जहां एक तरफ यह परिभाषा हम जानते हैं कि यह जन्म-जन्मान्तर का सम्बन्ध है जो कि हिन्दु स्त्री और पुरुष का होता है वहां हमारे, यहां धर्म ग्रन्थों में बताया गया है कि जो अपने कर्मों के अनुसार पूर्व जन्म पर विश्वास करता है कि पूर्व जन्म में उसका पति मानव होगा, दानव होगा, पशु होगा, यह जन्म-जन्मान्तर का सम्बन्ध है, इस तरह की चीजों में मेरा विश्वास नहीं है। लेकिन मेरा यह विचार है कि विवाह वह वस्तु है जो कि जीवन भर के लिये एक कम्प्रोमाइज (compromise) होता है। अगर हमारे पति और पत्नी का दिमाग कानूनी बातों की तरफ रहे कि हमारा सम्बन्ध विच्छेद हो सकता है तो मैं समझती हूं कि जीवन निरर्थक है यह बात तो ऐसी हो जायगी कि वह लोग कभी भी अच्छी तरह गृहस्थी का काम नहीं चला सकते हैं। अगर कहीं पर इस तरह की समस्या है तो ऐसी अवस्था में न तो कभी धर्म का ही विकास हो सकता है और न संस्कृति का ही विकास हो सकता है। अगर कहीं पर किसी कारणवश सम्बन्ध विच्छेद की जरूरत है तो मैं समझती हूं कि उसका कानूनी अधिकार औरत को होना चाहिये। आज हमारे समाज में बहुत सी कठिनाइयां आ गई हैं। मैं समझती हूं कि मेरी ही आंखों से सामने नहीं है, मेरी ही आंखों के सामने दृष्टान्त नहीं है बल्कि यहां पर जो महानुभाव बैठे हैं उन सब के सामने हैं। एक पति दूसरी शादी कर सकता है जबकि उसकी पत्नी की उम्र थोड़ी ही हो। और दूसरी तरफ वह स्त्री जिस की उम्र १६, १७ और १८ ही वर्ष की होती है वह दूसरी शादी नहीं कर सकती, उसको इस बात का अधिकार नहीं है कि वह सम्बन्ध विच्छेद कर ले। इसका परिणाम क्या होता है, मैं इसके विस्तार में नहीं जाना चाहती। मैं तो सिर्फ नम्रतापूर्वक इतना ही कहना चाहती हूं कि इसका परिणाम भयंकर होता है, खराब होता है। वह स्त्री कानून के कारण दूसरा विवाह नहीं कर सकती है। हमारे कानून में जो उसका पति है उसका उससे कोई सम्बन्ध नहीं है। वह इस समाज में अधोगति में पड़ी रहे और तरह तरह के कष्ट भोगती रहे फिर भी समाज उसको सम्मानपूर्वक दूसरा विवाह करने की इजाजत नहीं देता जिससे कि वह अपने बच्चों का पालन पोषण कर सके, घर गृहस्थी जमा सके, और अपना शेष जीवन सुखमय तरीके से व्यतीत कर सके।

जहां पर ऐसी परिस्थिति उत्पन्न होती है वहां पर मैं चाहती हूं कि स्त्री को यह अधिकार होना जरूरी है। यह मैं नहीं चाहती कि आम तौर से इसका इतना प्रचार किया जाय कि इसकी प्रतिक्रिया आरम्भ हो जाय और हर एक स्त्री पुरुष के दिमाग इस तरह काम करने लगे कि वह जब चाहें सम्बन्ध विच्छेद हो जाय। जहां तक मैं

[श्रीमती कमला चौधरी]

समझती हूँ इस बिल में इतनी सहूलियत भी नहीं है कि जितना लोगों ने कह रखा है। सबसे बड़ी खूबी जो मुझे इसमें नज़र आती है वह यह है कि हमारे यहां ८० फ्री सदी जो जातियां हैं उनमें मैंने यह देखा है कि पंचायत बैठ गयी और एक मिनट में सम्बन्ध विच्छेद हो जाता है। कहीं कहीं तो ऐसी जातियां भी हैं कि जहां पंचायत बैठ कर भी फ़ैसला नहीं करती। स्त्री पुरुष बिल्कुल आज़ाद हैं और एक दूसरे को छोड़ कर दूसरे के साथ शादी कर सकते हैं। ज्यादा से ज्यादा अगर बिरादरी में उन पर कुछ किया तो यह हुआ कि कुछ दण्ड दे दिया या जाति से अलग कर दिया और एक जाति भोज देने के बाद वह फिर जाति में सम्मिलित हो जाते हैं। इस बिल के पास होने से उन जातियों का बहुत लाभ होगा, उन जातियों का कि जिनमें सम्बन्ध विच्छेद, तलाक इतना हलका बना दिया गया है। उनके ऊपर भी यह बिल प्रतिबन्ध लगा देगा और इससे बहुत बड़ा लाभ यह होने वाला है कि जो हमारी पिछड़ी हुई जातियां हैं, जिनमें संस्कृति नहीं है, वह सुसंस्कृत हो जायेंगी और उनकी संस्कृति का विकास होगा। यह बहुत बड़ी खूबी मुझको इस बिल में मालूम होती है।

सबसे अधिक विरोध जो इस हिन्दु कोड बिल का किया जा रहा है वह मैं समझती हूँ किया जा रहा है सम्पत्ति के कारण कि जो इस हिन्दु कोड बिल में यह उत्तराधिकार पिता की सम्पत्ति में एक बालिका को भी लड़के के बराबर दिया जा रहा है। और इस विरोध में तरह तरह की बातें कही जा रही हैं। कुछ वक्ताओं का कहना है कि इसमें भाई बहन का जो एक सरल स्नेह है, एक स्वाभाविक स्नेह है, वह नष्ट हो जायगा और हमारी परम्परा, हमारे परिवार की सारी व्यवस्था इससे नष्ट हो जाने वाली है। यह बात मेरी समझ में नहीं आती क्योंकि देखा आज यह जाता है कि किसी भी पिता के अगर दो पुत्र हैं या चार पुत्र हैं तो सब जगह यह जरूरी नहीं है कि भाइयों में परस्पर लड़ाइयां हों, झगड़े हों। लेकिन साथ ही ऐसे भी किस्से सुनने में आते हैं और ऐसे ऐसे भी दृष्टान्त देखने में आते हैं कि ऐसी लड़ाइयां भी होती हैं कि वह एक दूसरे की जान के ग्राहक हो जाते हैं। तो इस तरह मैं यह समझती हूँ कि कल को भाई बहन के लिये भी यह मान लिया जाय कि सम्पत्ति का अधिकार होने के बाद भाई बहन में इस तरह का झगड़ा होने लगेगा तो इस तरह के झगड़े भाई भाई में भी होते हैं और उस समय कोई भी संस्कृति की दुहाई देने वाले ने क्या कभी इसका प्रचार किया है कि इससे भाई भाई में झगड़े होते हैं? क्या यह झगड़े हमारी संस्कृति के अनुकूल हैं, भारतीय संस्कृति के अनुकूल हैं? हमारे धर्म की जो महत्ता है वह है परस्पर के सरल स्नेह में, प्रेम में और आपस के अच्छे सम्बन्ध बनाने में। यह हमारे धर्म की संस्कृति है। और मुझे ऐसे दृष्टान्त दिखाई देते हैं कि जहां एक बहन है वह अपने भाई को बहुत अधिक प्रेम करती है। प्रेम बहुत प्रकार के होते हैं लेकिन यह प्रेम जो एक बहन अपने भाई के प्रति रखती

है वह मैं समझती हूँ कि इतना सरल, इतना स्वच्छ होता है कि ऐसा प्रेम और नहीं हो सकता। इस प्रकार का प्रेम भाई के प्रति उसके मन में होता है। आज कानून में हमारा यह अधिकार मौजूद था कि मां का जो धन होता था, जो स्त्री धन होता था, जो आभूषण मां को मिलते थे उसकी अधिकारिणी लड़की होती थी। लेकिन हर जगह यह देखा गया है कि बहन ने बैठ कर भाइयों के साथ उन अपने आभूषणों को बांटा है और किसी ने कहीं लड़ते झगड़ते नहीं देखा। यही हमारी स्त्री का ऊंचा आदर्श कायम रहता है तो बहन भाई के लिये त्याग करने को सदा प्रस्तुत रहेगी। ऐसी बहुत कम घटनायें घटेंगी कि आपस में लड़ाइयां हों। अगर थोड़ी देर के लिये यह भी माना जाय कि ऐसा भी होने वाला है तो मैं कहूंगी कि आज कितना बड़ा अन्याय है और वह दृश्य मेरे सामने आ रहे हैं कि जो हमारे बड़े बड़े ताल्लुकेदार हैं उनके यहां यह देखा जाता है कि पिता की सम्पत्ति पर भाई जशन कर रहे हैं। खुद के लिये तीज त्यौहारों में इतना खर्च कर देते हैं कि जो बहन के सारे जीवन के लिये काफी होता। उसी घर में अगर बहन विधवा हो कर जाती है तो उसका स्थान वहां सिर्फ रसोई के, रसोईदारिन के, और अच्छा नहीं रह जाता। उसी घर में जहां कि आज पिता की सम्पत्ति पर, पिता के वैभव पर, भाई बहुत मजे करते हैं, उसी जगह मैंने बहन को अपनी आंखों से देखा है कि जो अपने छोटे बालकों के लिये दूध के वास्ते तरसती है। उसके मन में भी इच्छा होती है कि मेरे भतीजे जिस तरह अच्छे कपड़े पहनते हैं, जिस तरह उनकी अच्छी शिक्षा होती है, उसी तरह मेरे बच्चों को भी खाने को मिले, पहनने को मिले, और अच्छी शिक्षा मिले। लेकिन कानून ने उसकी ज़बान पर ताला डाल रखा है और इस लिये उसके आंसू उसकी आंखों में ही सूख कर रह जाते हैं। मैं बड़े अदब से पूछना चाहूंगी, उन लोगों से जो आज इसका विरोध कर रहे हैं, कि क्या यह हिन्दु धर्म के अनुकूल है या जो यह अन्याय नारी के ऊपर किया जाता है उसकी अनुमति हमारा धर्म किस सिद्धान्त पर देता है? इस लिये मैं समझती हूँ कि जो इस बिल में यह पिता की सम्पत्ति में लड़की के अधिकार की बात रखी गयी है यह भी समय के बहुत उपयोगी है और हमारी संस्कृति और धर्म के अनुकूल है। और मैं उम्मीद करूंगी कि बहुत उदारतापूर्वक इस पर विचार किया जायगा।

इसके विरोध में बहुत लोगों ने यह भी कहा है कि यह विचार कि पैतृक सम्पत्ति में नारी का कोई हिस्सा होना चाहिये यह उन लोगों के मस्तिष्क की बात है जिन पर विदेशी संस्कृति की छाप है, जिन्होंने भारतीय साहित्य नहीं पढ़ा है। मैं आपका बहुत समय न ले कर थोड़े ही समय में बताना चाहूंगी कि जिन्होंने हमारे ग्राम गीतों को पढ़ा है उनमें यह भावना आज से नहीं बल्कि सैकड़ों वर्षों पूर्व से भरी हुई

[श्रीमती कमला चौधरी]

है। यह भावना हमारे लोक गीतों में हमारी मां बहनों के समय से नहीं, हमारी दादी परदादियों के समय से चली आ रही है जब कि कहीं पर भी विदेशी संस्कृति का नाम निशान भी नहीं था जिस समय हमारी संस्कृति पर उसकी कोई छाप नहीं थी। शादी के समय हमारे प्रान्त में जो गीत गाये जाते हैं उनमें यह भावना भरी है और मैं समझती हूँ कि सभी प्रान्तों में शादी के वक्त ऐसे गाने गाये जाते हैं। उन गीतों की पंक्तियों को मैं यहां दुहराना नहीं चाहती लेकिन संक्षेप में यह बताना चाहूंगी कि हमारे यहां विवाह पर गाने गाये जाते हैं, कम से कम हमारे सूबे में जहां से मैं परिचित हूँ और कुछ दूसरे प्रान्तों का भी ग्रामीण साहित्य मैंने देखा है और वहां भी इस तरह की पद्धति है और इन गानों में बड़ी अच्छी भावना हमको मिलती है जहां लड़की यह विचार जाहिर करती है कि मेरे पिता का जो राज्य है उसमें मैं आधा हिस्सा चाहती हूँ। भाई उसको तरह तरह के प्रलोभन दे कर कहता है कि मैं तुझको थाल भर कर जेवर दूंगा, घोड़े दूंगा, हाथी दूंगा और दहेज में इतना इतना सामान दूंगा। लड़की कहती है कि अगर मेरे भाग्य में यह वैभव लिखा है तो यह तो मुझको अपने ससुर, अपने पति के यहां भी जा कर मिल सकता है। लेकिन मैं तो हमारे यहां आधा हिस्सा चाहती हूँ। मैं तो इसी घर में पली हूँ और यहां जो फुलवाड़ी है उसका हिस्सा चाहती हूँ, तालाब चाहती हूँ। तो इस तरह की भावना के लिये जो लोग कहते हैं कि यह विदेशी साहित्य का असर है या विदेशी शिक्षा का असर है या विदेशी संस्कृति का असर है, इस तरह विदेशी शिक्षा में पढ़े हुये लोगों के दिमाग की उपज है, यह बात बिल्कुल निराधार है। यह भावना हमारे पुराने साहित्य में भरी पड़ी है और जो पुराने ग्राम गीत हैं उनमें तरह तरह के ऐसे दृष्टान्त मिल जायेंगे जिनमें यह भावना होती है।

और कुदरत ने लड़के, लड़की को बिल्कुल माता पिता के लिये एक सा बनाया है। आज क्या कारण है कि पिता की सम्पत्ति में भाई का हक होता है, लड़की का कोई अधिकार नहीं है? मैं समझती हूँ कि यह भी एक अन्याय है। यह दूसरी चीज है कि आज हमारे समाज की जिस तरीके की व्यवस्था है, उसके अनुसार शायद कुछ लोगों को इस बिल के अमल में आने में सन्देह और मुश्किल मालूम हो, क्योंकि हमारे समाज में हमारी सोसायटी में दामाद जो चीज है, उसको जमाई बाबू या पाहुना कह कर ज़िन्दगी भर पुकारा जाता है और कभी भी वह उस फ़ैमिली का मेम्बर नहीं बन पाता। मैं समझती हूँ कि अगर यह अधिकार लड़की को मिल जाता है, तो उससे जो दूसरे घर का लड़का अपने घर में दामाद बन कर आयेगा, वह भी उसी तरीके से जिस तरह से एक पिता के दो लड़के हों, एक तीसरे लड़के की तरह बन कर उस फ़ैमिली का एक मेम्बर होकर रह सकता है और इस तरह से आपस में मोहब्बत

बढ़ सकती है। यह दलील मुझे अपील नहीं कर सकती कि इससे भाई बहिन का जो आपस का सम्बन्ध है, वह खराब हो जायगा, या वह नाश हो जायगा। मैं ऐसा नहीं समझती कि अगर यह कानून पास हो जायगा तो हमारी सामाजिक मर्यादा, हमारी सांस्कृतिक मर्यादा, हमारी धार्मिक मर्यादा सारी छिन्न भिन्न हो जायगी, यह बात मेरी समझ में नहीं आती। मैं इन शब्दों के साथ यह आशा करती हूँ कि जिन लोगों ने अपना नया विधान पास किया है, अपने समाज की अपने यहां की शासन की व्यवस्था बिल्कुल बदलने जा रही है और जहां पर कि स्त्री को समानाधिकार देने की बात कही गयी है, उस विधान के पास करने वाले व्यक्ति यहां एक ठण्डे दिमाग से इस चीज़ पर विचार करेंगे कि आज नारी समाज किस स्थान पर है और आज समय की क्या मांग है और समय की क्या पुकार है, किस अधिकार को हमको तुरन्त दे देना चाहिये। क्योंकि विद्वानों, साहित्यकारों और इतिहासकारों का मत है कि कोई भी समाज जब तरक्की के मैदान में आगे होती है, तो जो परिवर्तन उसको तुरन्त कर डालने चाहिये, अगर वह परिवर्तन तुरन्त नहीं कर डालती, तो वह समाज तरक्की में शताब्दियों पीछे पिछड़ जाती है और अगर वह समय की मांग का और समय की आवश्यकता का अनुभव करके जो परिवर्तन उसे तुरन्त कर डालने चाहिये, अगर वह उसे तुरन्त कर डालती है, तो हमारी तरक्की होती है। मैं यह आशा करती हूँ कि यह बिल हमारे यहां पास होगा, क्योंकि यहां वह व्यक्ति इस असेम्बली में अधिक संख्या में मौजूद हैं जो कि महात्मा गांधी के अनुयायी कहे जाते हैं। महात्मा गांधी वह महापुरुष थे, जिन्होंने हमारी भारतीय नारी समाज की समस्याओं और हमारे व्यवधानों को बहुत अच्छी तरह से समझा और राजनीतिक क्रान्ति के साथ साथ उन्होंने हमारी पुरानी सामाजिक रूढ़ियों के प्रति एक ज़बरदस्त क्रान्ति उठाई और हमारी जो पुरानी सामाजिक रूढ़ियां थीं, उनको बहुत जल्द तोड़ फोड़ कर फेंक दिया। मैं समझती हूँ कि उस महात्मा गांधी के अनुयायी लोग इस बिल पर अच्छी तरह से विचार करेंगे और उदारता से जैसी कि हमारे धर्म और संस्कृति की व्याख्या है, उदारता और सहानुभूति के साथ इस पर विचार करके इस बिल को पास करेंगे। अन्त में मैं फिर एक बार अपने माननीय मन्त्री महोदय को नारी समाज की तरफ से यह विश्वास दिलाना चाहती हूँ कि जो यहां की नारियां इसको समझ सकी हैं, वह इसका हृदय से स्वागत करेंगी और हमारी भविष्य की आने वाली जो नारी समाज होगी, वह भी इस बिल के पास करने के लिये उनका आभार मानेगी।

(English translation of the above speech.)

Shrimati Kamala Chaudhri (U. P.: General): Sir, before I say a few words in connection with the Hindu Code Bill, I should like to congratulate the hon. Dr. Ambedkar for bringing forth this Bill. My own feeling is that this Bill

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has been brought up before this House in conformity with the spirit of time. This is absolutely in accord with the march of the time and present-day demand. Although it is being opposed on religious, cultural and many other grounds and various kinds of things are heard against it in the course of hostile propaganda, yet my personal feeling is that this Bill will prove a sort of panacea for our women community and the progress of our Indian Society, and this will go a long way to benefit our women-folk who are even today being degraded to the lowest ebb. Moreover, our future women-folk shall also remain indebted to the hon. Minister and this House if this Bill is passed in this Assembly.

Those who oppose this Bill have expressed the opinion that this will prove harmful to our religion as well as culture. This thing does not appeal to me at all. This is another thing that the brain and heart of our countrymen have been framed in such a way that anything said in the name of religion highly appeals to the sentiments of the people. On the altar of this very religion—in what manner did we accentuate our communal feelings? In the name of this very religion, we have seen the murder of Mahatma Gandhi—the father of the Nation.

So in this way I see that this Bill is also opposed by raising a hue and cry in the name of religion and Indian culture, and those of the persons and our sisters, who cannot even as yet understand what is law, how this Assembly has been constituted, who cannot even understand the right of franchise which has been granted to them in our Constitution, are being told like this, and it is acclaimed that a great majority of women in the country are opposed to this Bill. But so far as my humble intellect can conceive, this Bill does not appear to contain any such thing which might be against our religion and culture.

In one of the parts of this Bill, a provision has been made prohibiting the right of polygamy which is at present exercised by the religious-minded Hindus. This is not permitted and a ban has thus been imposed upon it. With all the humility, I would submit that I apprehend that this Bill might be opposed by a majority of our brethren for the reason that some such ban is being imposed upon them that in the life time of their wives, they shall not be permitted to contract many marriages. But I do not find in it anything against the religion, because it so looks to me after going through our scriptures and ancient literature that never during any time, even in the olden days, the institution of polygamy was looked upon favourably. After scanning through the ancient literature, we do come across such instances where the ruling prince was allowed to marry more than one wife. We find the rulers disregarding the customs, traditions, usages and the lofty ideals—ideals regarded as sublime—on which stood the structure of our society, but I would like to cite before you an example set forth by one who is considered as an incarnation of God and who has placed an ideal before us. After looking through the great epic written by Valmiki—the epic which has safeguarded our Indian culture and which has sustained our culture for the last so many centuries—it appears that when King Ramachandra sat for the performance of *Ashramedha Yagna* and when the priests and elderly persons told him that the *yagna* (oblation) cannot be perfected in the absence of a wife, even at that moment he performed the ceremony by installing a gold idol of Sita and did not have recourse to a second marriage. This ideal lies before us and if we scan through our classical epic, we shall have a glimpse of this at every place. During the times when Lord Rama lived in the forests and when Shrupnakha implored him for marriage, Lakshman had told her that Ramachandra was a prince of Ayodhya and was likely to become the ruler of that kingdom and that he was even in a position to marry; but the latter was already a married man

and could not thus re-marry. Even at that time the utterances which our Poet Laureate had attributed to Lord Rama establishes the same very ideal that the institution of polygamy was not looked upon favourably during those days. I do not understand how the restriction placed thereon in this Bill is opposed to religious doctrines. On the contrary I think that if such actions were to be encouraged then they would surely cause the destruction of the high ideals of our Indian culture and society. I believe this to be an ideal for every Hindu who professes himself to be a follower of Hindu religion and a supporter of Indian culture. It is a great injustice done to woman that the husband is allowed to enter into matrimony once, twice, thrice or even four times in the very life time of the legally wedded wife. For a woman this custom is horribly painful and demands utmost sympathy. It is another thing that since centuries restrictions have been imposed on our women folk and the women of this country have more or less been confined within the four walls of the house. Restrictions have been imposed on their social, mental and economic rights. Their tears dry up in their eyes only and are not even allowed to trickle down. But our poets, writers and authors have given a very vivid description of this colossal suffering and tribulations that the women have to endure. For a woman no other suffering is more tormenting than the distress of having a co-wife.

Now when the age of renaissance began and the eminent persons of our country began to realize their abject misery then as a result of their kind efforts the condition of the women folk was carefully considered over and hence from time to time such revolutionary Bills were passed in this House. At that time our country was in turmoil and then Mahatma Gandhi forced an entry into the social structure of our society. He elevated the women folk to such an extent that they could stand on their own legs. Today a keen desire for securing her due rights has awakened in her heart. The woman of the future will not tolerate this sort of oppression and tyranny lying down as she has been doing till today. She will never tolerate this sort of neglect and disrespect. Therefore I think this time to be most favourable. The Bill that is before us should be passed in this House with great applause.

This Bill is being opposed on many grounds. I have had opportunities to hear such thing here. Obscene and dirty things are said against the women community, they are being stigmatised. Thus a propaganda is made here by giving publicity to such scandalous slurs against the women folk. The people here have come to believe that the right to divorce provided in the Bill would result in the destruction of the structure of our society and our culture would go to dogs. I do not understand how people give rise to such apprehensions and how they resort to such talks. But as far as I have studied this Bill I have not come across anything concerning the dissolution of marriages that can be called an innovation, or anything that has not been allowed and permitted by our sacred texts and holy scriptures. All the conditions that have been laid down for the dissolution of marriages, or in what manner the marriages can be dissolved, or for what seasons divorce can be granted, I think all these conditions do exist in our *Shastras*. I myself believe in Hindu religion and culture. I am a Hindu woman. Wherein lies the glory and importance of the woman I know that also. For centuries our sages and preceptors, poets and writers have sung songs about the greatness of the Indian woman and have mentioned her in the most glorious terms. I know that all this greatness has not been attributed to female form only, they have sung songs about her noble spirit of renunciation instead. I think that this high ideal is very good for us. Not from today but from ages the Indian woman has been maintaining these ideals and the glorious history of her renunciation and ideals will for ever go down in annals of Indian culture and the history of mankind.

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But in every society it has been found impossible for each and every individual, may be male or female, to live up to the highest of the ideals. Mahatma Gandhi has been acclaimed a super man by the whole world. He placed before us his ideals and though being his followers we ourselves could not live upto them. Similar is the composition of the society as also of the world. If this whole world and our Indian society in particular were to maintain the high standard of ideals then I think this very world would become a paradise.

Whenever some high ideal is set before the people then in order to create a proper atmosphere for it a number of things have got to be done. Take the case of the Hindu marriage system for instance. At the time of marriage the priests interpret this alliance to be so indissoluble so everlasting that it would hold good for future births and re-births also. I don't believe this. Because while on one side according to Hindu ideals we are led to believe that this marriage alliance between a Hindu male and female lasts till eternity, on the other hand in our holy scriptures it has been laid down that according to the philosophy of *Karma* this alliance would have continued eternally even if in previous births the husband may have been a human being or a demon or an animal, but I do not believe in such a thing. What I believe is that marriage is just a compromise for the life time. If our married couples were to hanker upon the legal possibilities regarding the dissolution of marriages then I think that our life would become quite useless. The result of such a state of affairs would be that the people will never be able to raise and maintain happy families. If such state of affairs do exist anywhere then under such circumstances there can neither be the evolution of our religion nor the cultural development of our country can take place. If under any circumstances the separation be deemed essential then I think the legal right must lie with the woman. Many defects have cropped up in our present day society. I think instances are not only known to me but all the gentlemen present here must be in the know of them. A husband can marry a second time even when the age of his wife may not be much. On the other hand a woman whose age may only be 16, 17 or 18 years cannot re-marry; she has not been authorised to get her marriage dissolved. What such a state of affairs results in? I do not want to go in details. I very humbly beg to submit only so much that such things result in grave disasters. Legally that woman can not re-marry. Her legal husband has no relations with her. May she lie in the abyss of the society and suffer extreme distress and tribulations yet the society does not allow her to enter into an honourable remarriage whereby she may be able to support and sustain her children, set up a family and pass the rest of the life in comfort and ease. Under such circumstances I wish that the woman should have this right. I do not wish that this right should so commonly be used that it may create retaliation and every man or woman may begin to think that they can have separation if and when they like. As far as I think this Bill does not provide so much facilities as the people profess. The most outstanding speciality that I can see in this Bill is that in 80 per cent. of our community I have seen that a *panchayat* is called and separation is effected within a minute's time. At places and in certain communities even the *panchayat* does not assemble to give its decision. Males and females are quite free and leaving each other they can re-marry whomsoever they like. The utmost punishment the community can impose upon them is that they are somewhat chastised or ex-communicated and after giving a community feast they are again taken back in the folds of the community. The passing of this Bill will highly benefit those communities wherein separation and divorce are considered to be very insignificant things. This Bill will impose restrictions on them also and the greatest benefit that we would have of this Bill

is that our backward communities which have no cultural background will become cultured and their moral standard will be raised. This is the most outstanding speciality that I have come across in this Bill.

The strongest opposition that is being made against this Bill is I think about the question of the property, for the reason that this Hindu Code Bill seeks to provide the daughter also a share in the father's property equal to that of the son. A number of different things are being said about this measure. Some hon. Members hold the view that by adopting such a measure the innate affection and natural love between the brother and sister will cease to exist, over heredity and our entire family system will be disrupted. I cannot understand this thing because as we see today if a person has two or four sons then it is not at all essential that these brothers fight among themselves or kick up disputes. But at the same time we do sometimes hear of such incidents and many instances are before us that such disputes are kicked up and they become deadly enemies. So I think that if it be taken for granted for brother and sister also that after inheriting the property they will also kick up similar disputes then as such disputes generally take place between brothers also so they do not matter much, moreover at that time do the persons who profess the culture to be in danger ever try to proclaim that this inheritance of property kicks up disputes and quarrels among the brothers so it should better go? Are such disputes in accordance with our culture? The glory of our religion lies in natural affection, mutual love and in being on good terms with others. This is our culture according to our religion. I see many such instances where the solitary sister has got a deep affection for her brother. Loves are of different kinds, but the love that a sister has for her brother, I think, is so unassuming innate and pure that no other kind of love can stand up to it. Such an affection she bears for her brother. Our existing law provided that the property that was owned by the mother, the *stridhana*, and the ornaments that the mother possessed were inherited by the daughter. But everywhere it has been seen that the sister has shared the ornaments with her brothers and nobody has ever seen them quarrelling over the division. If the high ideals of our women folk hold good then a sister will always be prepared to sacrifice her all for her brother. There will be very few cases where such disputes will take place. If for the time being it may be taken for granted that such state of affairs will come to pass still then I will say that this is a grave injustice. I am able to recall the case of our big *talukdars* where the brothers live extravagantly on the property left by the father. For themselves they spend such heavy sums on the occasion of *Tij* and other festivals as might have served the sister for a lifetime. If, however, a widowed sister happens to come and live in that very home her place is in the kitchen and her lot is none better than that of a cook. In the home where, today, brothers enjoy life on the strength of the father's property, the father's wealth, in that very home I have seen with my own eyes the sister pining for milk for her young children. She too has the desire that her children should have good things to eat and good clothes to wear and that they should receive good education in the same way as her brother's sons. But the law has sealed her mouth. She is tongue-tied and dare not give vent to her feelings. I would like, very respectfully, to ask those people, who are opposing it today, whether this is in accordance with the Hindu law and, if so, which school of our philosophy sanctions this injustice shown to woman. Hence, I think that the provision relating to the daughter having a share in her father's property is very much in consonance with the times and compatible with our faith and culture and I hope it will be considered in a very generous spirit.

In opposing this provision several people have also averred that the idea that a woman should also have a share in her father's property took birth in the minds of those persons who are imbued with a foreign culture and who

[Shrimati Kamala Chaudhri] .

have not read Indian literature. I shall not be taking much of your time and should like to tell you briefly that this sentiment finds ample expression in our folk-songs which have existed for the last hundreds of years. This sentiment did not get into our folk-songs at the time of our mothers and sisters but has been there since the times of our grand and great-grand-mothers when there was not even a trace of foreign culture anywhere and when it had not set any kind of seal on our culture. The songs that are sung at the time of marriage in our Province contain this sentiment and I think that such songs are sung at marriages in all Provinces. I do not here want to recite the actual lines of those songs but would briefly like to state that such songs are sung amongst us at the time of marriage, at any rate in our Province with which I am familiar. I have also studied the folk-lore of some other Provinces where too a similar line of thought exists. We find a very wholesome sentiment forming the burden of these songs. The girl gives expression to her desire to have one-half share in her father's 'dominion'. The brother offers her various kinds of temptations, saying he would give her a plate full of ornaments, that he would give her horses and elephants and also enumerates the various articles he would be giving her by way of dowry. The girl replies that if she is destined to acquire all that wealth it could also become available to her when she goes over to the house of her father-in-law and her husband but that she would rather have her one-half share here, that she has been brought up in this home and that she would like to have a share in the orchard and the tank here. Thus there is absolutely no foundation for the allegation that this sentiment is the product of foreign literature, or foreign education, or foreign culture or that it is a creation of the minds of those persons who have received their education from foreign sources. Our ancient literature abounds in that sentiment and our folk-songs would offer various such examples as reflect that feeling.

Nature has made a boy and a girl equal in the eyes of their parents. Then why is it that a boy should have a share in his father's property but a girl should have none? I feel that is also a kind of injustice. This is another matter that in view of the present set-up of our society some people might, per chance, be entertaining doubts and anticipating difficulties with regard to the practical application of this Bill, because the position occupied by a "son-in-law" in our society is rather peculiar. All his life he is called *Jamai babu* or *Pahuna* (the Guest) and never becomes a member of that family. I feel that if the daughter is conceded this right the result would be that the son of another family who comes in as the son-in-law could also live as a member of the daughter's family as if he were a third son to the father who already has two, and this should encourage mutual love and affection. The argument that this would strain relations between brothers and sisters or break them for good cannot appeal to me. I do not think that if this law is passed it would mean the disintegration of all our social, cultural and religious traditions. I am unable to appreciate that argument. With these words I express the hope that those people who have passed our new Constitution, who are out to make a radical change in our social and political set-up and who have conceded in that Constitution the equal rights of the women, will reflect coolheadedly over the present position of our women. Let them hearken to the call of the times. We should concede this right straightaway. Scholars, men of letters and historians have held the view that if a society which steps forth into the field of progress, does not promptly carry out all those changes, which are urgently called for, it is likely to be left centuries behind in that field. On the other hand, if, properly appreciating the call and the needs of the times, it promptly gives effect to the urgently needed changes

it marches forth to a speedy progress. I hope this Bill is going to be passed by the present Assembly because here we have present, in a preponderating strength, persons who are called the followers of Mahatma Gandhi. Mahatma Gandhi was the great man who had a sound grasp of the problems and the handicaps facing the Indian women. Along with the political revolution he also stirred up a powerful revolution against our old social conventions and was soon able to root out and destroy them. I feel that the followers of Mahatma Gandhi will give their thorough consideration to this Bill and pass it after having considered it generously and sympathetically in the light of our faith and culture. In the end, once again, I wish to assure the hon. Minister, on behalf of the women, that all those women of this country, who have been able to comprehend this measure, are going to welcome it heartily and that even the women of the generations to come will feel grateful to him for having got it passed.

Shri Kameshwar Singh of Darbhanga (Bihar: General): Sir, it has become very difficult for those of us who are opposed to the motion moved on behalf of Government to take part in this debate after what our Prime Minister has said in this House about the measure before us on the opening day of this session. I was not present in the House when he made the statement, but if the press report be true, he has made the passage of the Bill an issue of confidence in his Government. I am strongly opposed to the measure (*Interruption*).

Mr. Deputy-Speaker: Order, order. Nothing will go on if these interruptions are made. The interruptions will only increase the time taken by the Members.

Pandit Lakshmi Kanta Maitra: Apparently the hon. Member is making a very good speech.

Shri Kameshwar Singh of Darbhanga: But I am equally strong in my view that in the present state of our country the Government of our Prime Minister is the best Government that we can have. Howsoever imperfect it may be, a better alternative to the present Government is not available. That, I think, is the view of the most of the people who do not belong to any political party. Thus, the stand taken up by our Prime Minister assumes the shape of "Undue influence", if not "coercion", for men of my way of thinking. I would therefore earnestly request the Prime Minister to reconsider the matter and unload the question of confidence in his Government from the consideration of the measure.

I would like the House and Government to postpone further consideration of the Bill till the wishes of the electorate are ascertained in the next general elections for reasons stated by the hon. Dr. Rajendra Prasad, in the note which he sent in the capacity of the President of the Indian National Congress to our Prime Minister last year.

Hon. members of this House know that there is a great divergence of opinion with regard to this important measure of, if I may say so, revolutionary character. It affects the personal law of the vast multitude of people. It affects their social and economic life as well as the forms and customs that have grown with the various schools of the Hindu law during so many centuries. In the name of uniformity and codification it threatens to arbitrarily disrupt the fundamental social and economic structure of the Hindu community embracing all except the Muslims, Christians, Parsis and the Jews. I fully agree with the observations of you, Sir, and Sri Ram Narayan Singh contained in your notes of dissent on the Report of the Select Committee on this Bill. The members of the present legislature have no mandate from the electorate

[Shri Kameshwar Singh of Darbhanga]

even with respect to the major issues involved in the Bill. After all, the next elections are not far off and nothing will be lost if the matter is deferred till then.

I am definitely of opinion that such vital changes as are proposed in the measure should not be made in this manner. If one cares to look into the views expressed before the Hindu Law Committee he will not fail to notice that the opposition to the Bill is very strong. I belong to that class of people which considers the *Smriti* and the school of interpretation, he follows, as sacrosanct; and the class to which I belong constitutes a large proportion of the total population of the country. We consider marriage, succession and the like as a part of our religious duty and obligation. To us these are much more than mere secular or social phenomena.

It is true that the social structure has gradually changed and is changing under the stress of circumstances. But such changes have taken place by the process of evolution and not by imposition from above. Further, these changes do not generally affect the principles on which the Laws governing the various Hindu societies are based. Now, the question is whether the changes proposed in the Bill are such as have been accepted by the people in general and require just legal sanction. My answer to this is emphatic 'NO'. No doubt, the authors of *Smritis* and their interpreters made changes from time to time but they did so when they could enforce them by the popular support they had. The bulk of the people had abundant faith in their learning, in their foresight, in their purity of purpose and above all in their conduct. The authors of this proposed Twentieth Century *Smriti* have no such background. They do not have in the hearts of the people the status of those ancient *Smritikars* whose injunctions govern the lives of so many people even today. The diversity perceptible in different parts of the country goes a great way in establishing the fact that popular acceptance and not imposition from any central political authority has been the sanction behind the personal law of the Hindus. Unity in diversity is the chief characteristic of the Hindu life and religion and we should not take the seeming diversity as an evil which must be instantaneously removed.

The fundamental difference between the outlook of the ancient law-givers and the present day law-givers is that whereas the basis of the former's consideration was purely spiritual, the basis of the latter's consideration is grossly material and to accept it is to give a go-by to our philosophy of life, to the continuity of our tradition and to the foundation of our culture. I, for one, am not prepared to do so.

Besides this, I apprehend that there will be practical difficulties in implementing the provisions of the Bill. Just imagine how long it will take Government to educate the people that they should go to law court for getting their marriages registered. Just imagine what complications and confusion will the provisions for void and voidable marriages create. Just imagine what havoc will the provision for the dissolution of marriages and divorce play in the domestic life of the people whose conception of society has so far been quite different from the one on which these provisions are based. I do not agree with the view that only hard cases will come up for remedy. My own fear is that many interested persons will come into the picture to disrupt the domestic life of their neighbour, relatives etc., for their selfish ends. Similarly, the provisions regarding succession will make the management of property difficult and become a prolific source of intrigue by designing persons in the society. Lawyers and law courts may prosper but families will be broken up and domestic peace will decay.

The report of Dr. Dwarkanath Mitter, one of the members of the Hindu Law Committee, embodies the opinions of the vast bulk of Hindus. The facts on which he has based his conclusions are irrefutable. The report of the other members of the Committee is merely an attempt to explain away the irrefutable facts mentioned by Dr. Mitter in support of his contention. It appears that the Majority of the members of the Committee had already made up their minds on major issues and took no note of the public opinion expressed before them in different ways. I wonder how the Government of India of today which is so sensitive to public opinion has considered it proper to bring a measure of this kind before this House. For the sake of satisfying the sentiments of a few so-called 'progressive' element in the Hindu Community it should not have proceeded with the measure which is opposed by an overwhelmingly large number of Hindus. If those who advocate the adoption of this measure go from village to village and collect the reaction of the Hindus on the provisions of this Bill, I am sure that they will hardly find satisfactory support. At least in my Province, the public opinion is decidedly against this Bill.

Dr. B. Pattabhi Sitaramayya (Madras: General): Sir, the moment I rise before you I hear certain utterances from friends. Some say "Support"; others say "Oppose".

Shri B. L. Sondhi (East Punjab: General): You will do both.

Dr. B. Pattabhi Sitaramayya: Perhaps I am doing both, because on a matter like this it is our duty not to be dogmatic. Only great men and fools are dogmatic and I disclaim being either. It is much better to string our thoughts with the thoughts of others and try to evolve a G.C.M., a thing which we learnt in our early days of arithmetic,—the greatest common measure of agreement upon such vital questions as the structure and functioning of society, which is a living organism and not a dead joint stock company with its own memoranda, and articles of association which are liable to be changed any day by paying three rupees to the Registrar. This society which we have inherited and of which we are proud to call ourselves members has been in existence for perhaps thousands of years.

Babu Ramnarayan Singh (Bihar: General): Since the creation.

Dr. B. Pattabhi Sitaramayya: Nobody knows when it started. At least I can say from the evidence that we have before us in Kautilya's *Artha Shastra* that this had attained its perfection 2300 years ago. The same problems of marriage, of crime, of punishment, of psychological complications, of political puzzles, that were treated by Kautilya in his *Artha Shastra* are before me to day without one iota of change. I would ask friends who have not read that book to read it. Read the *Sukra Nithi Sara*; read the other political works of our ancient Hindu law.

Shri L. Krishnaswami Bharathi: Kautilya's *Artha Shastra* is not unfortunately available.

Dr. B. Pattabhi Sitaramayya: It is quite available for those who have a mind to get it.

Shri L. Krishnaswami Bharathi: But I have tried my level best.

Dr. B. Pattabhi Sitaramayya: I would therefore urge the House to look into the antecedents and the conditions of progress and conditions of evolution which have characterised the changes in what we call the "Hindu society". I do not say that we should be proud of Hindu society and Hindu culture, but after all what is called Indian culture is largely Hindu culture and what is called Indian society is largely Hindu society, and if other people have come

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and mixed with us—the Jats, the Moghuls, the Turks, the English and others—they have perhaps assimilated many of the good points in us and they have enabled us to assimilate many of their own good points, so that the confluence of these cultures over a thousand years has enriched, both in volume and in content, the stream of our own national culture. Now, we are the inheritors of this proud heritage. How shall we deal with it? Is there a philosophy behind it or is it merely a random growth?—an accretion of conditions, an amorphous composition in which parallel forces are in juxtaposition without organically combining with one another or is it a solution and an assimilation of all the various factors, with the merits dissolved and the demerits left on the surface? These are the points which we have to consider. Have we considered these points before embarking upon this mighty reform? Who has initiated this reform? When was it initiated? In whose time was it initiated? Has it been taken up after the National Government has come into being, or is it merely a legacy of the past Government which we have taken on hand through the Secretariat? What is our initiative? What is our part in dealing with it? Society, I told you, is a living organism. It has certain philosophical truths behind it. It has economic propositions before it. Take Hindu society. Have you come across any society in the world which is more socialistic, inherently and internally, than Hindu society?

I have got fifty acres of land. I have got two sons. My two sons are each heirs to only twenty-five acres. My first son has four sons. Each boy gets only six acres. Is property allowed to accumulate in our system of inheritance? Not at all. It is a socialistic structure of the supremest kind. You want to destroy this socialistic structure and then you want to substitute an individualistic civilisation where each man owns his property, where property is inherited not by birth, but by survivorship. What happens? Individualistic property comes into being. Perhaps the next step will be Dr. Ambedkar's Bill on a law of progeniture for the common man. Then you will create and maintain an aristocracy. You bring into existence a class society, not a classless society. A classless society where learning and property, learning and wealth are well balanced gives place to a society in which wealth reigns supreme. That is exactly what happens in the west. That is exactly what cannot happen in the east. Here, through a system of social organisation, we have balanced the wealth and the culture, and then having brought them into existence, we have attached greater value to culture than to wealth. Wealth has taken a subordinate place. Now what are you going to do? You allow a lawyer to amass ten lakhs of rupees. He is the supreme master. He has obtained all the wealth that his brothers could have given him in sending him to England and making him a Barrister-at-Law. But the gains of his learning are his own exclusive property under the law which has been brought into existence by the British—thanks to their ideals. Now, whereas the other people, the other brothers, the agriculturists as well as the traders who have gone through the same process of righteous labour, have to divide their property with the educated Barrister-at-Law, the Barrister-at-Law is exempt from sharing his properties with those two brothers. Is this justice? Is this fairplay? It is outrageous nonsense compared to the noble standards which have been adopted in our society.

Now let us pause here for a moment and ask a question: Have you appointed a Commission to go into the social, political, economic and the moral implications of the structure and functions of this society? Have you got a report based upon a study of the psychology that lies behind this structure which has endured the buffets of time and circumstance for a period easily and admittedly, of five thousand years and perhaps which has gone back to thirteen thousand years and may be, possibly to thirty thousand years, because there are all these three versions about the age of the Mahabharata and the Vedas,

about the age of our society and ancient civilisation. How is it that you don't do that. If you want to give tariff assistance to a little quantity of iron that is being imported from Antwerp you appoint three people drawing Rs. 3000 each, constitute them into a Tariff Board, obtain a report from them based upon the evidence that has been led by all the capitalists in the country, then you consider it in the Finance Department, you place it before the Assembly and then you grant that tariff weightage. What have you done with regard to our society? You snap your fingers at it—this ancient society, this relic of ancient barbarism, this vestige of antiquated stuff! No; you say "let us go the whole hog."

We have cast our universities after the style of London; we have adopted our legal system after the style of High Courts in London and we have carved out Legislative councils and legislatures after the manner of the Parliament in the West, and now it only remains for us to copy the Western society, Western manners, Western social institutions and Western civic laws. Please do not mistake me. I have been in sympathy with divorce for a long time. I have been thinking of divorcing my wife and I have also heard that she wants to reciprocate the honour. That is not the point. I tell you I am in sympathy with many of the items of this measure. But I want to tell you what kind of approach and attitude you are adopting towards the institutions of India after you have attained Swaraj. This summary, this absolutely impromptu method of dealing with this question does not appeal to my fancy, much less to my conviction. But I know that you will tell me: "Oh, this Bill has been hanging fire ever since the Congress left the portals of the Legislature. Yes, it has been hanging fire! You will, however, remember that in 1938 July the Congress passed a resolution that it should walk out of the legislature because armies had been sent to Egypt and to Singapore, which were then considered the frontiers of India. So, as a protest against that act, and as a protest against the breach of the pledged word of the Government who said that they would not send any armies abroad without the specific permission of the Legislature, we walked out and ever since we never walked in until 1946. During this time men who were not patriotically inclined, men who were the proteges of Western civilisation, men who had spent their whole time in England or abroad, were put into a Committee and they evolved this formula for us. I got in 1944 October the first report on the Hindu Law Reform Committee while we were in the Ahmadnagar Jail. Now the main inspirer and agent of this measure was Shri B. N. Rau to whom we owe all that we have achieved in the New Constitution. He is a lawyer noted for his knowledge of constitutional law, case law, codified law and customary law and one who has done yeoman service to us. He was a Judge of the Calcutta High Court in Bengal where Dayabhaga prevails. I suppose you know Mitakshara prevails in Madras and one or two other provinces while Mayukha is the Law in Bombay. This gentleman who never had any experience of Mitakshara and who was a Judge of the High Court of Calcutta and whose knowledge of law is absolutely unquestionable has initiated this. Later on the Congress Party or the popular party never had the opportunity of discussing this question in the Central Legislature. When Mr. Asoka Roy came as Law Member, he said that he would not touch this Bill even with a barge pole. (Shri Mahavir Tyagi: What is a barge pole). A barge pole is a pole which is used to drive a barge on the waters.

After all, this matter has come up; and as if we have been waiting for it in eagerness and expectancy, we have taken this up without so much as mentioning a word about it in our election manifesto. Have you ever come across a party which draws up a comprehensive election manifesto covering all questions from China to Peru and contemplating the nationalisation of the

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key industries, abolition of drink and zamindaries and various other things, but never saying a word about social reform which is the central factor relating to India?

It is not merely a piece of social reform. In India society is closely mixed up and intertwined with religion. Religion is the sanction behind everything. Now I am a most irreligious man, but I have the greatest regard for the sentiments of my neighbour. Otherwise I am an uncultured brute. If I want to practise my heresy upon the convictions of others then I am not worth the salt that I eat. Now then, not merely religion, but economic factors, social factors and other things are intertwined. The joint family system is the creation of ages. What is this joint family system? It is an insurance trust; it is a co-operation union; it is a labour society.

It is a labour society where all the poor brothers toil; it is a cooperative society in which all the brothers live together—each for all and all for each, and it is an insurance union in which the widow of the deceased brother is the care and charge of the surviving brothers. This is what the Mahatma said when he opposed insurance. But I know everybody is not Mahatmaji. The Joint Hindu Family is a noble combination of these three features based upon a religious background and held together by a social bond. Can you produce an equal to it by all your labours, by all your statutes and by all the Halsbury's Laws of England? You cannot any more than you can produce an equal to the economy of hand-spinning which the Father of the Nation rediscovered. Permit me, with my usual immodesty, to say that I wrote a Book in 1938 which is called "The Hindu Home Rediscovered". As I entered life as a heretic, brought up in Christian traditions and western heresies, I began to discover in every festival, in every ceremony and in every religious observance of Hindu society there was something deeply religious, uplifting, inspiring and ennobling. When I lived with my sisters and my brothers, I rediscovered the Home and after twentyfive years I ventured to write this little book in which I have tried to idealise these things. I would not say that these ideals do exist in life, but when you judge an institution, you must judge it in its pristine purity, and not in its degenerated imitation. If you want to idealise any concept, popularise any institution and resuscitate it, then put it before the nation as it was conceived and get the consent of the nation for it. I can assure you that wherever I go. I always state the *pros* and *cons* of every proposition on this Bill. This Bill may be good in parts as the Parson's egg and it may also be bad in parts. If you say that you must do this for our women because women have come to their own, yes, do it by all means, but why be in such a hurry? I want them to come to their own, they have come to their own, and in the next Assembly I feel sure my sisters can fill half of the seats; out of five hundred, there can be easily two hundred and fifty women if they only make up their minds.

Shri L. Krishnaswami Bharathi: Will you allow them?

Dr. B. Pattabhi Sitaramayya: I admired Rajkumariji when she said before the Provincial Model Constitution Committee that women did not require any reservations. I thought it was rather an audacious statement for her to make and a great responsibility to shoulder but I know now that they are quite able to take care of themselves. If half a dozen lady members of this House can drag us by the heels and make us take up this Bill, I wonder what our position will be when there are two hundred and fifty of them here. I am not joking. If I have a voice at all at the time of selection, I may assure you that I will do it, notwithstanding Mr. Rohini Kumar Chaudhuri.

[At this stage Mr. Deputy-Speaker vacated the Chair, which was then occupied by Shri S. V. Krishnamoorthy Rao (one of the Panel of Chairmen)]

In this connection, I am tempted to read a little statement that I have here from *Picture Post* of March 12, 1949.

"From woman comes an incessant call for equality. What does she mean by equality? From the material point of view at least, she has the lion's share. Probably ninety per cent. of all advertisements cater solely for her. Film producers say eighty per cent. of films are made for her. Fiction publishers appear to think entirely in terms of woman. As for clothes, woman has a wide choice and range at reasonable prices, while shabby, thread-bare men can only gaze for long at a few miserable suitings in some sombre shop window and think of the fantastic prices charged. With our prophetic eye, let us gaze into the future. Woman has got more than equality and man has become a spinster's spaniel existing on woman's scraps and everything is beautifully lukewarm."

I may assure my sisters that nothing will be lost by their exercising patience. I was the other day questioned for having appeared on an orthodox platform with a Swarniji from Banaras and when I saw Prabavati Raje—she was a wonderful woman worker—leading the audience completely with her like the Joan of Arc of old, I saw the danger of letting orthodoxy do this. On invitation I went there and I spoke for an hour, and I was taken to task for appearing on the opponent's platform. I said, "What is the use of speaking to those who are converted? I must convert those who are not converted." I fully believe in educating the people about this new Hindu Code Bill. You must not precipitate matters and decide this issue by force of majority. But whenever this may happen, it is our duty to educate the people. Let us produce the result by popular educational propaganda. After all you have not nationalised the key industries. Where has this item gone? The capitalists struck and we had no money and we had to eat our words,—I believe in patience. One of these days things will be all right. We are afraid to do any nationalisation now. We are hesitating to abolish the zamindaries. We are hesitating to proceed with River Projects. We are hesitating to proceed with the development of cottage industries,—all because inflation is staring us in the face, and we cannot make all these necessary improvements. We are face to face with conflicts, contradictions all round. Life is not a smooth path like a journey on a railway. It is like a motor car journey upon bad roads in the midst of congested traffic. I ask you whether it is not the duty of the members of this august House to undertake the very useful and very fruitful task of educating their masters. What happened in the year 1878 when Robert Low said, after the extension of the franchise, "Let us go and educate our masters." Our masters are outside. We are not the masters. The Ministers are not our masters. We can deal with them as we like. We may dispense with them tomorrow if we do not want them. That is our right and that is our privilege and our safety also. Therefore I say that this is a matter in which we should go slow. I am second to none with regard to my love for social reform. I was a social reformer even in the year 1898 when I was in the B. A. class, which was 51 years ago, long before half of the audience was born, and ever since I have sustained that interest. I very early came under the influence of the Brahmo social reformers and I have fully imbibed the reformist spirit from the Christian missionaries under whom I studied from my fourth form to my B.A. classes.

Therefore it is not what should be done on the subject that matters, but how we are going to do it. We have got to remember the political bearings as well. Tomorrow you are appearing before the Polls. What a sad plight we were in yesterday! I was not here yesterday; otherwise I should have witnessed the scenes with my own eyes. I went to Alwar and returned only last night at eleven o'clock and the first thing that my wife told me was that there was a lathi charge and some people were dangerously wounded and so on. Naturally the news

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is exaggerated from lip to lip and from ear to ear. It is a most pathetic spectacle again that I witness today opposite to me. Generally I speak under an impulse or inspiration, but today I speak under an irritation of the sight of three women Police sitting opposite to me in the gallery. Has it come to this that this House cannot get on and the women that are in attendance in the gallery and below cannot be trusted except under the care of the baton of the women Police? Are you really proud that these police women should arraign our sisters hereafter? We have had enough of policemen. You know this is the most tragic development of this Bill. The Doctor will kindly note and if you cannot come to this House without the protection of the Police, women police for the women and men police for the men, then woe betide our progress, our legislation and our Assembly. I am really very sorry. I now leave the general observations and come to one or two salient points with which we are concerned today here and before that I shall submit a word about the progenitors of this legislation. I am very sorry that it should have fallen to Dr. Ambedkar's lot to pilot this Bill.

The Honourable Dr. B. R. Ambedkar (Minister of Law): I am not sorry at all.

Dr. B. Pattabhi Sitaramayya: I know; otherwise you would not be sitting so proudly in your seat. The doctor knows what I said about him. I referred to the indomitable, irresistible, unconquerable spirit of Dr. Ambedkar,—for good or for evil, whatever it be. We want always to say that the spirit is there and, therefore, we admire him, but at the same time, he is out of tune with society.

Shri L. Krishnaswami Bharathi: He is perfectly in tune, absolutely in tune.

Dr. B. Pattabhi Sitaramayya: I do not call him a misanthrope, but he is not a normal anthrope, that is all I can say; the training, the surroundings, the environment, the culture, all these put him out of tune with the spirit of the nation. He is one of our best intellects, there is no doubt about it and I wish he would have health and prosperity for a long time, but all this does not mean that we accept his point of view with which we came into conflict even in the Constitution when we passed that steam road roller law of a common civil law. Some of us resisted, though in vain, with the best of our might and main. Now I recall to your mind something that I said in the first day when this Bill was introduced in this House. I hope many people have forgotten so that they may not blame me for repeating what I am saying. In fact, I myself have forgotten the main point, but that point was that I take it that social reform in this country must be effected through the intercession, through the advice and through the inspiration of a Social Council we must bring into existence. I then gave the example of the Church Council of England in which the ecclesiastical dignitaries form the main element of strength and whatever they bring in by way of changes in life or law, the House of Commons accepts without changing a comma or a full-stop and that is as it ought to be in regard to religious or social matters and let us adopt such a course. In Germany there used to be an Economic Council which dealt with economic matters which require expert knowledge. The *Reichstag* used to accept the recommendations of that body. Let us, therefore, go slow and deliberately so that we may know exactly where we stand.

Now I come to a few points in the Bill and I won't detain you long. The Bill contains some very good points. I like civil marriage on the top of sacramental marriage. Mere civil marriage is like executing a document in order to register a transaction between two people. It is a contract. The

moment a document is written, it gives rise to strife, whether the intention is correct, whether the consideration is passed, whether it is valid in law etc. but when it is a sacramental marriage, there is no appeal against it. The old *purohit* is never called upon in life to stand up in a court of law and give evidence as to the genuineness and the *bona fides* of marriage. The marriage is there and nobody questions; it is like the integrity of the spoken word. When the nation has preserved the integrity of its spoken word, which it has lost during the British time and under the influence of the law courts, then I say, we shall have recovered our character once again. But there are circumstances such as those under which a friend of mine suddenly discovered on the marriage platform that his daughter and his would be son-in-law were of the same *gotra*. They could not possibly give up the marriage even at least for economic reasons, let alone religious reasons. So immediately they passed through the sacrament and then went to the Registrar of marriages and registered it. That it should be open to us to register our marriages is a great privilege and I also like that the question of the share of the property to the girls must be settled once and for all. For a long time I have felt that the daughter must be an equal inheritor of the father's property with the sons. Now I see that it is going to bring about endless complications in our social and economic structure. There is a friend of mine who has six daughters and one son and I asked the girls one after another separately and individually as to whether they would like to have a share in the property of their father. No: they said, "this will give rise to quarrels with our brother. We do not want this. We have our husband's property and that always remains with us." It is not however available to them as the *stridhana* would be available to them. *Stridhana* is a most wonderful thing, and I should like to know where in the world is there a parallel to this *stridhana*? The *stridhana* is an institution by means of which the *stridhana*, given to the girl at the time of the marriage becomes the absolute property of the girl which cannot be touched by the husband or by the father or by any human being at all. It is the reserve fund of the family which she is sure of and when her husband is very ill, she goes to the market to sell the jewels away for paying the doctor's fees and if the husband lives well and good, but if he dies, it is the last service to her Lord. Such a reserve fund is cast off and a share for the wife in the husband's property under T. V. Seshagiri Ayyar's Bill which became law about 15 years ago has now come to be recognized, but after the death of the husband in equal measure with each of the sons and only as a life interest. Our law in spite of the British people's unwillingness not to interfere with the religious institutions of this country for fear of their political stability being disturbed, has been slightly changed as has been already described by one of the earlier speakers and yet it is not sufficiently changed. The unfortunate feature is that the British people felt loathe to interfere with the social customs of this country for political reasons and therefore the law has become petrified. In every country custom goes on changing and when the King adopts a change in social customs, immediately that becomes the law and it sets the tone and the pace for all society. But unfortunately in our country for a thousand years we have not had indigenous kings and after the British came, they positively resisted all temptation to make any social changes in the social set-up. Therefore the custom has become petrified and it is that custom, that petrified custom which we must make plastic, which we must make elastic, which we must make impressionable and therefore, mutable. Instead of doing that if we suddenly throw one stone of law against another of custom, both the stones break and that is not the way of achieving this change. Changes in this customary law must be set in motion in order to bring about social changes.

Now with regard to this custom for the girl's share, I am quite willing

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that she should have a share, but I wish to make an alteration and that is that the moment she marries, she becomes a partner in the husband's property and that will not give any chance for the misbehaviour of the husband as it sometimes happens unfortunately. Then we go to the divorce question. I have spoken to many women. This morning four women came to me. They are good people, highly cultured, and there was also one among them who was introduced to me as one who had been abandoned by her husband, and they said it is not only those who are happy that withheld their support from this measure, but also those who are unhappy, the unfortunate victims of man's fury and tyranny. That is not the point, I said to them. The point is this. Ninety per cent. of our marriages are excellent but what about the remaining ten per cent? They want relief. In India we marry and love, the English people love and marry and then give up their love, because what is called love at an impressionable age is a fanciful affair. One does not know what it is. In Hindu society there is a law or rule that in respect of marriage *Shree, Kulamu, Roopamu, Bandhu Shreni and Sampradayam*,—all such things should be considered. All these have to be considered before a marriage is settled. *Shree* means *Sampatti* or prosperity, then comes *Kulam* or caste and position, and then *Roopamu*, that is appearance, *Sowndariya* or beauty; and then *Bandhu Shreni* or collection of relations and they there is *sampradaya* or the tradition of the family. All these five have to be carefully considered. Can a girl of eighteen—quite marriageable in age—select by judging, all these things? Can she distinguish between one and another among these things? No. The other day I asked my wife's sister's husband's sister. No, that is not a distant relationship, you know, my wife's sister's husband is my brother-in-law and his sister was married. But I learned that she had said something to her father before her marriage. I went to her husband's house, with her husband accompanying me into the inner apartments and there I said to him, "Do you know this girl never married you?" He was aghast, half angry and half surprised. "What do you mean?" he asked. I said, "I mean what I say, she never married you." "Why?" "She has married this electricity this motor-car that is in this house." The story is that the girl had said to her father "I don't care to whom you marry me, provided there is electricity and motor-car in their house." The poor girl of sixteen or eighteen, how could she judge of things and conditions? She simply thinks, "I have been brought up in this house by my father, he gets twenty thousand rupees a year and there is electricity here, there is a motor-car, and a palatial house. I should like to have the same conditions there also." That is all. But the English mother always complains that her daughter does not "make good", that is the expression. "My daughter does not make good" she says. That is, "My daughter is not able to keep a bevy of young men round about her, dancing attendance on her, standing her bills at the cinemas and restaurants and so on." That is what the mother wants. Don't nod your head that way please. What I say is true.

Pandit Lakshmi Kanta Maitra: I am supporting you.

Dr. B. Pattabhi Sitaramayya: Not you, but the friend behind you.

Shri R. K. Sidhva: Are you referring to me?

Dr. B. Pattabhi Sitaramayya: No, to your neighbour.

What happens in England? The mother is always anxious that her daughter should be able to attract the attention of half-a-dozen suitors, and it is then for the parents to select one out of them to make an eligible choice for a son-in-law. But the mother always

feels jealous of the maid-servant, because the maid-servant is able to make good, while her daughter is not able to. That is the tragedy. What does the maid-servant do? At eight o'clock in the evening she changes her apron and gets into her clean smart gown and goes away. "Where are you going?" "My lover is waiting outside, and I must go." "No, no, my son-in-law is coming now." "Hang yourself and your son-in-law by the nearest tree. My lover is waiting and I am going."

Shrimati Renuka Ray: You have a very poor opinion of women, whether Indian or foreign.

Dr. B. Pattabhi Sitaramayya: But I have a very high opinion of my wife.

Now then, the mother complains that 'that woman is able to make good and attract a number of men, but this daughter of mine is not able to attract them'. And so the mother is sorry. That is the fashion. That is the custom of the country. That is the order of the day. And there is nothing wrong in it. That is the system which has come into being. Go to Malabar and see the *Marumakkatayam* system. That is an altogether different thing. For three years you may study it and still you will never understand its secret. But it is a beautiful system, and my friend Mr. Thanu Pillai was against changing it at all.

Sir, your predecessor gave my predecessor twenty minutes after the bell. But I will take only two minutes more.

Now it is not too late to mend. We have not gone too far. It is well that we have discussed this matter, and discussed it seriously, so thoroughly and so sombrely. We have given so much attention to this subject. Now what shall we do? Shall we proceed with the measure? I appeal to the hon. the Law Minister to withdraw it and then put it up—and a more stringent measure next time—with due authority and sanction from the electorate. Then I say no man dares attack us. He will be summarily shot, because I will have the sanction of the country, I will have the election manifesto; I will come armed with that power, that strength and I will have a right to do it. Now you come without authority. You simply depend upon four women police for your protection. That is a pathetic sight for one, for any progressive Congressman to witness.

Then again, there is another thing. I trust and hope that whatever may happen—and I hope that the Bill will not be proceeded with—but if it should be proceeded with, I feel that full freedom may be given to every Member of this Assembly to vote as he pleases. If that is given, half the sting is taken away. But we have already fallen into the trap of allowing this thing to go on. Now, friends, let me warn you. This will have a serious repercussion upon our coming election. After all

Shri Mahavir Tyagi: Postpone elections for another five years.

Dr. B. Pattabhi Sitaramayya: After all, remember that we are here as the representatives of the people, and after all, remember that ninety per cent. of the people belong to one community, bound by one social law and one civic institution, one patriarchal system, all this is there, and people are not so intelligent as to discriminate between one thing and the other. They only feel irritated. They are already irritated by more than one circumstance. Yesterday's demonstration was not so much a protest against the Hindu Code

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Bill as an expression of a certain sullenness and anger of the people with the Congress and Congress institutions. It is no use our concealing it. Wherever I go I feel I am assailed and attacked. But through my garrulity, my long-windedness, through my talkativeness I manage to get over the thing. But at the same time, I know on what delicate ground I am travelling. I speak not merely as a critic of the Government, but as a responsible member of the Congress who has given cent. per cent. support on all occasions to this Government, I say however that he is not a well-wisher who simply flatters, or conceals the truth from the Government. Perhaps you remember that last spectacle—not a scene in Hamlet—a scene in the drama of Germany where the Kaiser on the 9th November 1918 summoned all his generals and asked

them to speak. Nobody would speak, they were all silent. Then he said, the Kaiser orders you to speak, and then Gen. Ludendorff spoke for when the Kaiser orders, and if he did not speak, he would be shot. Just as when Queen Victoria asked Prince Albert to open the door. She said, "Dear, open the door" but the door does not open. Then she says, "The Queen of England orders you to open the door" and then the poor fellow came and opened the door. So it was with the Kaiser, and Ludendorff said, "Your Majesty, there are only twenty-four hours for you to escape across to Holland." Then the Kaiser asked, "Why?" "Why? because the army would not fight". The Kaiser said, "I will lead the army myself". But the army would not fight and in twenty-four hours this man was transferred. When an unpleasant truth is said, please listen to it, because there is in it nothing but the best wishes for our conjoint prosperity and success. If not on principle, if not on sound morality, at least on expediency please reconsider the position and make it possible for the people to go along with you.

Acharya J. B. Kripalani (U.P.: General): Sir, in some quarters there is an apprehension that I may talk against the policy of the Government. Though I have spoken in this House only once, yet this apprehension exists in some quarters and I want to allay that apprehension. I stand here to support the broad principles of the Bill. I do so because I do not want this Government to resign upon a side issue, upon a social issue. I want it to resign on more substantial, political and economic issues. I would rather want it to resign, for example, as any other Government in a more democratic country would have resigned, on the issue of the sugar muddle, by which infants of the poor could not get sugar but tons could be had by those who were prepared to pay fancy prices. On such issues if this Government goes there will be no regret but I do not want it to resign upon a social side issue.

An Honourable Member: Sugar is not more important than this measure.

Acharya J. B. Kripalani: Yet it is not as sweet.

Even then I would not have come to support this Bill but for the pressure that I had from quarters from which I could not resist such pressure. I was told at home that I must support this Bill. I said that I was innocent of a knowledge of the Hindu law, that Hindu law ran into volumes and there were many volumes of commentary and how could I support or oppose a thing which I had not understood. Then I was quickly told "I can make you to understand it."

An Honourable Member: Who was your teacher?

Acharya J. B. Kripalani: So I submitted myself to a few curtain-lectures. I was assured that my teacher had been instructed by the highest authority in this Assembly, the great Dr. Ambedkar himself. After the curtain-lectures were over I was just as wise or as foolish as I was after my teachers in school or college had instructed me. I came to the conclusion that my teachers were more foolish than myself.

When I was a professor I thought the students would pay me the same compliment. Knowing that, when I entered the class I always said "Gentlemen, your presence is assured and after I have marked the roll call you are free to go, because I know you will not give me more credit for my learning than I gave to my teachers."

Sir, I am pledged to support the Bill and I must support it, because I know that even though my wife may be absent, when she comes back she will not only take financial but moral and intellectual accounts from me.

For me, Sir, it is not a question of religion in danger: it is a question of my home in danger. Much has been said about Hindu religion being in danger. I am afraid I cannot see the point. Hindu religion is not in danger when Hindus are thieves, rogues, fornicators, black-marketers or takers of bribes. Hindu religion is not endangered by these people but Hindu religion is endangered by people who want to reform a particular law. May be they are over-zealous but it is better to be over-zealous in things idealistic than be corrupt in material things. It is this mentality of ours that brought about the death of the Father of the Nation. It was supposed that the murderer was a better Hindu than the person who lived according to the highest ideals preached in the Gita and in the Upanishads and whose life was lived in the light of the teachings of our scriptures. I would wish the Hindu community to divest itself of such false notions about their religion. Our religion was not made by murderers and thieves; it was made by Sadhus, Sanyasis and Mahatmas.

Yet, there is the other side of the question. A great deal of confusion has been caused, for one party says that religion is in danger and another party says that the modern religion of progress is in danger. If you do not support the Bill you are a reactionary.

I will tell you how I was converted to support the Bill. One reason I have already told you. Another reason I will give you now.

There was a woman and she whispered to another woman "Kripalani won't support the Bill: he is a reactionary."

Shri B. L. Sondhi: Were they both members of this House?

Acharya J. B. Kripalani: They were hon. Members, not members. She in confidence told me "I protested and I said Kripalani is progressive." So I was put on my honour. You see what subtle kind of propaganda goes on. One woman tells something to another woman in confidence and she brings the story to me. Now how am I going to act? I cannot consider myself reactionary and not progressive. I may be called a non-Hindu but for a modern man not to be modern is a greater stigma than to be without religion. I may not believe in God, but how can I not believe in the God of progress as is in the West?

I will also tell you why the first woman said that I was a reactionary—it is a very interesting story—but only if you promise not to interrupt me by

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your laughter. I happened to be the Chairman of the Fundamental Rights Committee. In the Fundamental Rights Committee the proposition brought forward was that it should be the fundamental right of women not to be in purdah. Of course I am in favour of all women going without purdah—and what male will not. I admire those people who would not, but I am not one of those admirable people. I said that I have no objection to this clause going in the Fundamental Rights, provided that all purdah disappears—the ancient purdah and the modern purdah. Take a round in the City of Delhi. It is very difficult to see the face of a woman. There is always a mask. (*An hon. Member: The powder!*) If the ancient purdah is to be removed the modern mask may also be removed because the modern mask is even more complete than the purdah. The purdah you can take off at will, but the mask can only be taken off at home and by certain chemical processes.

Lest you may misunderstand me I tell you that I am a great believer in human equality. And in humanity I also count womanity. I want that this Bill should be passed because it gives us equality with women. I think that this Bill is in the interests of our equality. I have always thought that in comparison with women we are at a very great disadvantage. First of all, nature has put us at a disadvantage, because if you think a little, you will admit that everything that a man can do a woman can also do. But there are certain things which a woman can do which men cannot do—not even in our imagination, not even in our dreams, not even in our nightmares. I cannot conceive.

Some Honourable Members: No, you cannot!

Acharya J. B. Kripalani: I was talking of conceiving in an intellectual sense. But since you have already found out my meaning I need not dilate upon it. (*An hon. Member: Oh, no.*) But I have often been curious and have even asked women “what is this excruciating pain and what is this superb joy that you have in conception?” and they only smile at my ignorance and give no answer. I have again asked them what pleasure they have in nursing the baby at the breast. Then also they smile at my ignorance and give no answer. In these matters I think we are at a very great disadvantage. They are great creators. Artists create inanimate objects, women create images of God, which sometimes degenerate into images of Satan. In these things, of course, nature has put a kind of block in our way and we cannot achieve equality with women. But in many other things we can achieve equality with women.

So far as the question of women achieving equality with men is concerned, they have already achieved it in India. You know that as soon as we had Swaraj, we had a woman Governor. Two centuries of independence have passed in the United States of America, and there are forty-eight States, but I do not know if even once they have appointed a woman as Governor. Of course my knowledge of history may be old and I speak subject to correction, but I believe no woman was appointed as a Federal Minister. I may also say that in a country like England, where female education is widespread, I do not know whether up to this time there has been a woman Cabinet Minister. I am not talking of the many auxiliary Ministers that we have here too—they are also called ‘Ministers’—but I am talking in terms of Cabinet Ministers. So far as I know, there has not been one in England. Then I do not know whether in England and America there have been woman diplomats—ambassadors. And yet you must remember that one of our star ambassadors is a woman.

Shri R. K. Sidhva: We are proud of our women, Sir.

Acharya J. B. Kripalani: Well, Mr. Sidhva thinks that I am not proud. I am very proud of this. But I am thinking in terms of equality, not of pride. I say, “we have granted women equality, and now shall we be given some equality with women?” I am very much oppressed because I am after all an old man. I have learned that old age is to be respected. But when a chip of a girl comes into my drawing room I have to act just like a jack-in-the-box and pop up.

[At this stage Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) resumed the Chair.]

I did not do that in former days. Not only that, may I tell you, Sir, that even when my wife comes in the drawing room I get up. Do you know why? Because some boorish young man may be sitting there and he may not know the modern manners and he may not get up; just to give him an example, I rise. I want that there should be equality, because you just see, I as a male am obliged to get up when a female comes, while I know that when even our Prime Minister or the President of the Congress enters a room, I have seen young women sitting in their seats. This is a very great injustice to the mere male. My experience has been that if there is a quarrel between a man and a woman in the bazaar or in the market-place, because I do not know about secret quarrels—or in the club, and supposing a man hit the woman, do you know what would happen? There would be almost a riot and everybody would call the man a coward and rightly too. But supposing the man was beaten by a woman, do you know what would happen? I think he would look very ridiculous and instead of anybody sympathising with him, he would be the object of ridicule and rightly too. Whether we beat or are beaten, both ways we are the losers. I want that this balance should be restored and there should be some equality to protect the mere man.

There is yet another thing. Not only in society are we at a disadvantage, but the law is also against us, as even our Law Minister will admit. Supposing a man runs away with a woman, the man is responsible in law. Supposing a woman runs away with a man, again the man is responsible. I have it on the highest authority, very modern authority, that it is the woman who is often the pursuer. Whether we are the aggressors or they are the aggressors, irrespective of aggression, the law comes down upon us. We are sufferers both ways. I would, therefore, request this House to bring about some equality, so that we men may be able to breathe more freely, so that if we are kicked, we may kick equally freely without ridicule, without the law coming to the help of the stronger party, namely, woman. You can now understand why I support this Bill.

Let us now go into details. There is first of all the question of property. I really do not see how, we of the Congress, who are pledged to the abolition of private property, yet think in terms of as to whom one share or the other should go. I see a curious phenomenon in this nation which I have not observed in other nations.

Shri Lakshminarayan Sahu (Orissa: General): I want to know one thing. Is the Congress pledged to abolition of private property?

Mr. Deputy-Speaker: That is the hon. Member's opinion.

Acharya J. B. Kripalani: I think if the Resolutions of the Congress are carefully read it will be plain that the Congress does stand for the abolition of private property, that is, accumulated private property, not private property that is in use. But as the Deputy-Speaker rightly said, this is a question of opinion. I find that all people here are more concerned with redistribution of

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existing wealth. There is no effort in this land to create new wealth. Even our Socialist friends are not thinking in terms of creating wealth, but of redistributing the very little existing wealth that we have. I am indifferent where the little bit of existing wealth goes, whether it goes to the woman or to the man provided it remains in the nation. The nation should not be the poorer for it. You will be surprised to know, but I do not mind people taking bribes even, or going in the black market. After all, wealth does not go outside India. It is somewhere with the Indian people. I only think of the morality of it which is destroying our public life and our private morals. So far as wealth is concerned, it does not matter so much. After all, these bribe-takers and these black-marketers are not taking away wealth to any foreign country. If it is not my brother-in-law, it is somebody else's brother-in-law. It is after all there. So I do not for a moment think in these narrow terms of where the existing wealth goes. I am thinking in terms of the nation. The whole attention in England and other free countries is directed to creating more wealth rather than dividing the already meagre wealth that exists there. Therefore, I wholeheartedly support that a share in ancestral wealth be given to women. If they have their own share, they may be more careful about their money. It has been my experience that the expenditure of a woman is much more than that of a man. I have seen that when girls go to college and school, the mother is more careful about their clothes than about the boys' clothes. The young boys may toddle along to school walking all their way, but the young girls must go either in a tonga or in a bus even though the bus charges may come to Rs. 15 a month. So in clothes and in transport charges and in other things, woman's education costs more. This is when she is not married. When the women are married, you can look at their dress and at our dress. I have very often found at weddings that the boy looks like an idiot and the girl looks like a queen. I have seen it and anyone who has critically observed it will certify that it is so. On the road, I have also seen modern women and modern men going together. The modern man generally wears English dress and it is not on everybody that the English dress sits well. There are only a few exceptions. On most of us it looks very awkward. But the woman is in her native sari, full of colour, and even if she has no ornaments, she looks better and more respectably dressed than the man beside her—nowadays he walks a little behind her and looks awkward. Those who are not acquainted with Indian middle class society today, or are

5 P.M. foreigners, would think that perhaps some *chaprassi* is going behind.

Therefore, I say, Sir, they have their own property, we will not be bothered by these things. They will spend it as they like and I am sure they will spend it more economically than when they have to purchase things and the bills come to us. Therefore, I am a great advocate that the women should have their property share also.

Then there is another point about which I am very particular. I am told that you cannot adopt a girl child. I happen to be in the unfortunate position that I have no children.

Shri B. L. Sondhi: What a pity!

Acharya J. B. Kripalani: It is a very great pity. I thought that as a Hindu I could adopt a child. But I have always had a preference for a female child, I adopted a couple of girls, but they ran away with their husbands. I yet want to adopt a girl. I do not know why this provision is there that you cannot adopt a girl. The girls, so far as the father is concerned are more lovable than boys and the more saucy and impudent the girl is the more the father loves her. Therefore, I request that if there be any defect in this Bill it may be corrected and female children may also be allowed to be adopted.

About divorce, Sir, I may tell you that I am not personally concerned, because my marriage was not criminal, but civil. It is open not to me, but certainly to my wife to divorce me any time she likes, if she feels that I am not behaving properly. But I find that so far as provisions for divorce are concerned this Bill is more retrograde than old custom. As we have been told by Shri Alladi Krishnaswami Ayyar and a woman speaker, there is a simple system of divorce among the masses in the villages. There are no costly proceedings, there is no scandal, there are no newspaper articles. All this is avoided. I would suggest, Sir, that a more reasonable, more scientific and more up-to-date attitude be adopted in the matter of divorce.

Sir, I have a suggestion to make, for what it is worth, for the consideration of the Law Minister and this suggestion would not involve expenditure, litigation, scandal or newspaper articles. All the marriages should be for five years and at the expiry of five years every marriage would be renewable. The renewal can take place by some declaration before any village officer or his parallel in a town or city. You can after five years go and say that you do not want to separate and the marriage continues. This will make divorce easy, scientific, without scandals, without litigation and I tell you it will be most up-to-date. I make this suggestion for whatever it is worth and I tell you it satisfies all the requirements of the new religion of progress and advancement.

Shri L. Krishnaswami Bharathi: Sir, may I make a request to you, Sir, to allot one more day for the discussion of this Bill, in view of the fact that there are many hon. Members who wish to speak on it. The hon. the Prime Minister is here and he will be able to tell us whether Government would be prepared to allot tomorrow also for the discussion.

The Honourable Shri Jawaharlal Nehru (Prime Minister): Sir, the House knows that nothing is more precious than every day and every hour of this House. We have a great deal of very important business to get through during this session and there are not many days left over. Nevertheless, as I made it clear in the early stages, we want to give the fullest opportunity for this debate to be carried on and for as many members as possible to speak upon it. Naturally, this, or any other debate, cannot be carried on indefinitely to the detriment of other public business. So Government have stated that they want to give as much time as possible, subject to the debate terminating and ending. I am perfectly prepared, on behalf of Government, to allot another day, that is tomorrow, subject to two provisos: one that the debate terminates tomorrow; second that we sit on Saturday to conduct other business of the House.

Shri Mahavir Tyagi: Sir, may I suggest that it is very difficult for us to sit on Saturday. The hon. the Prime Minister might just find time, because he has not to devote much time in the House. But we have to sit from morn till evening and in the evenings we have to attend meetings of Select Committees, besides attending to our other engagements. We have also, to go through the various papers received by us, draft amendments and send them. Saturday and Sunday are the only two days when we can do that work. I would request you, Sir, not to take Saturday.

Pandit Govind Malaviya (U.P.: General): I have to submit, Sir, that this measure is one in which the whole country seems to be more interested than it has been in any other measure. Members of this House should be allowed full opportunity of expressing themselves about it. So long as there is a single member of this House, no matter whether he is in favour of the motion or against it, who as a representative of the people, wishes to have a say on this Bill, we should allow time for it. If we cannot find time for it tomorrow, Government should give more days for the discussion of the Bill. I submit that it will not be fair to the people of this country or to the Members here,

[Pandit Govind Malaviya]

that anybody who desires to express his opinion about this measure should not be allowed to do so.

Mr. Deputy-Speaker: The hon. the Prime Minister has already said that he will allot one more official day for the discussion of this Bill. There are a number of other Bills which have been referred to Select Committees and others whose Select Committee reports have been presented to the House. Having regard to the business that is yet to be done the hon. the Prime Minister evidently thinks that not more than one day can be allowed for the Hindu Code Bill. So far as that matter is concerned, it is an official day and I am completely in the hands of the Government. It is for the House to agree or to reject. I have nothing more to say in this matter. So far about twenty-seven Members have spoken and we have taken over seven days and nineteen plus five, twenty-four hours.

Dr. P. S. Deshmukh: How many are wanting to speak?

Maulana Hasrat Mohani (U.P.: Muslim): What is the guarantee that we will be able to finish the discussion even tomorrow?

Mr. Deputy-Speaker: I have about thirty-four names still who want to speak. The matter stands there and only tomorrow is allotted as an official day for the conduct of this business. It is for the House to consider it tomorrow. Now, as regards Saturday, it will be fixed as an official day because tomorrow is being taken up by this. You can arrange for the Select Committees to meet on some other day.

The House will now adjourn till 10-45 A.M. tomorrow.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Wednesday, the 14th December, 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Wednesday, 14th December, 1949.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-45 A.M.

DELHI PREMISES (REQUISITION AND EVICTION) AMENDMENT AND VALIDATION BILL

The Honourable Shri N. V. Gadgil (Minister of Works, Mines and Power): Sir, I beg to move for leave to introduce a Bill to amend the Delhi Premises (Requisition and Eviction) Act, 1947, and to validate certain orders.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to amend the Delhi Premises (Requisition and Eviction) Act, 1947, and to validate certain orders."

The motion was adopted.

The Honourable Shri N. V. Gadgil: Sir, I introduce the Bill.

WOMEN POLICE IN LADIES' GALLERY

Mr. Deputy-Speaker: Before the House resumes further consideration of the Hindu Code, I would like to make a few observations relating to the observations made by Dr. Pattabhi Sitaramayya in the course of his speech yesterday when the Hindu Code was under discussion. My attention was invited to the reference made by him in the House in the course of his speech to the presence of women police in the Ladies' Gallery. This is obviously based on a misunderstanding.

As hon. Members are aware, the galleries are under the control of the Speaker and the arrangements for the admission of visitors to the galleries have worked smoothly so far and there has been perfect order in the galleries. I had not even considered the question of police aid, nor did the Government make any request to me to that effect. It appears that one or two police women came into the Ladies' Gallery to listen to the debates. Hindu law is such an interesting subject that no lady could help listening to it. They were not there on duty and had no functions of any kind to perform. I shall take

[Mr. Deputy-Speaker]

care to see that in future they are not admitted even as visitors. (Some Honourable Members: Why?) If a suspicion is created that we are guarding this House by police, I would like to keep the House beyond all such suspicion.

Shri Jaspat Roy Kapoor (U.P.: General): Sir, if Police personnel are admitted to the galleries, they should be asked to come without their uniforms.

Mr. Deputy-Speaker: I do not want any further discussion on this matter. Let us proceed to the further consideration of the Hindu Code Bill.

HINDU CODE—*contd.*

Mr. Deputy-Speaker: I have received a letter from Mr. Kripalani that it was under a misunderstanding yesterday that he sat down. I thought that he had concluded his speech. He says that as soon as I got up, in deference to the Chair, he sat down. If that is so, I would like to give him an opportunity to continue his speech, but I would request him to conclude his speech in a very short time.

Acharya J. B. Kripalani (U.P.: General): Sir, I thank you for the opportunity that you have given me to conclude my speech. I wanted to conclude it in a more serious manner. It appears to me that as a nation we lack a little humour and cannot penetrate to the serious purpose that lies behind the humour.

My support to the Bill is wholehearted and it rests upon very sound grounds. It rests on the foundation of the character and tradition of Indian womanhood. Throughout history they have played a very distinguished part in our life and in our culture. In ancient times we have famous names who contributed to the learning of the times. Many of them were great writers, philosophers and poets. In mediaeval times when we were down and out, when wave after wave of foreign invasion came, our women confined themselves to the home with their ancient virtues undiminished. And when wounded and disappointed we went home they soothed our wounds and kept the home fires burning. They were a consolation to us. Not only that, they kept our religion alive. They kept our traditions alive; they kept our culture alive. It is in Hindu homes, with Hindu women that we find our culture and our religion at its best. Even today when gentlemen change their dresses, our women do not change theirs. It is this trait of Indian womanhood that was recognised by the Father of the Nation and that was so ably utilised by him.

In our struggle for independence they stood shoulder to shoulder with us. Very often, I know, they had to suffer more than we had to suffer. Even when some of them did not bear lathi charges and did not go to jails, I know the privations that they had to suffer and they suffered them cheerfully. They have always helped us in every way and I suppose it ill-behoves us to think that they are thinking of themselves alone. After all the wearer knows where the shoe pinches. They know what handicaps they are suffering from. I am sorry that a Member from Bengal should be very enthusiastic against this Bill not knowing the conditions of the widows in Bengal. I have seen them with my own eyes.

Shri Suresh Chandra Majumdar (West Bengal : General): Not all Bengal Members are.

Acharya J. B. Kripalani: I was talking only of one Member who is very enthusiastic against the Bill. As I was saying the wearer knows where the

shoe pinches. I have no doubt that even when women get what they want, their traditional devotion to home, to their menfolk will not diminish and I have every reason to believe this. Sir, I am associated with women who may be considered as modern and you will excuse me if I give you a peep into my home life. You know and the House knows, Mrs. Kripalani, but you know only her public activity.

Sjt. Rohini Kumar Chaudhuri (Assam : General): On a point of order, Sir. Can you discuss about Mrs. Kripalani who is not present in the House?

Acharya J. B. Kripalani: Of course, I would seriously object if the Member discussed her, but I thought I had a little right to discuss her. As I was saying, she takes her full part in public life, but as soon as she is at home she is as good a housewife as any ancient woman.

Though I do not like anybody to do physical work for me, I can tell you that when I am not looking, she does everything for me, including the brushing of my chappals and the washing of my clothes. I have also had the privilege of seeing other women who are considered modern. I am acquainted rather intimately with those Members whom you see only in the House, and I have seen them in their home surroundings with their children, with their husbands, with their brothers, and I have no hesitation in saying that they lack none of the virtues of the old but they have added a new virtue to enrich their life, that of public activity and public work. Sir, I come from a community in Sind where most of the women are educated and according to modern ideas they may be considered even fashionable, but when I go to their homes I have marked the pathetic way they love their husbands, their children and their brothers.

An Honourable Member: Why pathetic?

Acharya J. B. Kripalani: I advisedly use the word because you do not know that this love of theirs is a very inconvenient thing to us menfolk. However much we may try to dominate the home and make our will prevail, they go round us in such a manner, with such devoted service, with such faithfulness, with such steadfastness, with such patience that I have yet to see husbands in the world who are more henpecked than the Indian husbands. They always stoop to conquer. I have seen these modern ladies highly educated, as educated as ourselves; and I have found that, under their skin, they are as ancient as any of their ancient sisters. I think those people who are married to old orthodox ladies and who have seen their devotion, if they were to see the devotion of the new, they will be surprised to see that there has been no change at all; and these women want that certain disabilities of theirs be taken away. It is said that, if women are given inheritance, love between brother and sister will diminish. I do not think that the love of our sisters is made of such flimsy stuff. It has centuries of tradition behind. I have seen sisters slaving away so that their brothers may be educated and find themselves on their feet. I have seen them sacrificing for the family. I come from a community where there is no joint family, where as soon as the son is married, he separates and lives alone, but I know because there is no joint family, there is greater love between the members of the family [*Hear, hear*] and it was manifested recently when the Sindhis had to migrate from Sind and come to India. I have seen three or four families living together in one house. If anybody had a house outside, if anybody had settled outside Sind and he was living in India, that house was shared equally with nephews and cousins and in-laws and they bear the trouble of this terrible congestion very cheerfully. Many of them have to spend large sums of money. So, this family love which has persisted for centuries is not going to end because there is a little change in the Hindu Law.

[Acharya J. B. Kripalani]

As Sir Alladi Krishnaswami Ayyar has told us, this law has always been changing. It is the pride of the Hindu religion that it has adjusted itself to changing circumstances. It is true to the old, yet it takes as much of the new as it is necessary for the healthy life of the community. Times have changed. If foreign rule had not been here, our Shastras would have changed; our law would have changed. Foreign rule made these laws very rigid, and it is time that we bring in some new life and new light into them, and this Bill is trying to do that. I am sure the Bill would be put into some shape and form in Committee and that there will be no complaints. I am sure that our home life is not going to be disturbed and I am sure the love and the loyalty of our women is not going to diminish, that their devotion to their mentfolk is not going to diminish in any way, and that the future women of India will be both true to their home and to the nation. Sir, I have done.

श्री गोकुलभाई दौलतराम भट्ट : माननीय उपसभापति महोदय, हिन्दु कोड बिल जब से पेश हुआ है तब से हिन्दुस्तान में एक हलचल पैदा हो गई है। डाक्टर सेन ने कहा है कि यह बिल ५० या ६० वर्ष पहले से ही हमारे सामने है। मैंने जो किताबें पढ़ी हैं उनसे यह पता नहीं चलता कि यह कोड पहले कभी आया था। लेकिन हिन्दु ला था और उसके मुताबिक कुछ कुछ परिवर्तन जब जब आये तब तब वह हिन्दु समाज के सामने आते रहे हैं इसमें सन्देह नहीं है। लेकिन जिस शकल में यह हिन्दु कोड बिल है वह तो हमारे सामने सन् १९३९ के बाद आया है। और उसके पहले डाक्टर देशमुख ने जब १९३८ में मैरिज बिल इसी भवन में पेश किया था, उस समय कुछ चर्चा चली थी।

Dr. P. K. Sen: May I just explain? I said that it had been before the legislative anvil for longer than 60 years, i.e., from 1856 or 1855, but that was with reference to the marriage law, not at all in respect to other aspects.

श्री गोकुलभाई दौलतराम भट्ट : मैं भी यही कहता हूँ कि इसमें से कुछ कुछ विषय हमारे सामने थे, हिन्दु समाज के सामने थे, और ऐसे विषय सिर्फ हिन्दु समाज ही के सामने नहीं थे, लेकिन पारसियों के सामने थे और मुसलमानों के भी सामने थे। मेरा कहना यह है कि यह हिन्दु कोड बिल जिस रीति से लाया गया है और जिस तरह से कमेटी, जिसे राव कमेटी कहते हैं, बनी उसका थोड़ा सा इतिहास आप देख लीजिये और मैं आपको यह दिखाना चाहता हूँ कि हिन्दु समाज, जिसकी आवादी करीब तीस करोड़ है, उसकी व्यवस्था के लिये जो कायदे कानून बनाये जाते हैं उसके लिये कितना समय मुकर्रर होता है, कैसे उसका प्रचार होता है, उसका अभिप्राय और राय जानने के लिये कौन से तरीके अख्तियार किये जाते हैं। हिन्दु कोड बिल आना चाहिये या नहीं आना चाहिये, हिन्दु समाज का संगठन होना चाहिये या नहीं होना चाहिये, हिन्दु ला के अलग अलग जो हिस्से हैं उनको एक में लाकर संकलन करना चाहिये या नहीं करना चाहिये, यह सवाल नहीं है। मैं आपका ध्यान

इस बात पर दिलाना चाहता हूँ कि राव कमेटी जो बनी वह सन् ४४ में बनी। सन् १९४४ की २० जनवरी को यह कमेटी बनी। और उसने अपना काम शुरू किया और एक ड्राफ्ट बिल बनवाया। वह बिल लोगों के सामने ५ अगस्त १९४४ को आया और उसके बाद दो महीने की मियाद दी गई कि ५ अक्टूबर सन् १९४४ तक लोग अपनी जो राय हो उसको भेज दें। और जनाब मैं यह ध्यान दिलाना चाहता हूँ कि इस बिल की कितनी कापियां छपवाई गयीं, १ एक हजार। तीस करोड़ की आबादी के लिये गवर्नमेण्ट आफ इण्डिया ने एक हजार कापियां छपवाई थीं। उसके बाद जब बहुत कुछ जोर दिया गया तो तीन हजार और कापियां छपवाई गयीं।

श्री महावीर त्यागी : वह अंग्रेजी में थी या हिन्दी में ?

श्री गोकुलभाई दौलतराम भट्ट : वह एक हजार कापियां और तीन हजार कापियां अंग्रेजी में थीं। उसके बाद राव साहब ने प्रभतीय सरकारों को कहा कि उसका अनुवाद छपवा कर बटवावें। वह अनुवाद भी छपा। तो मैं समझता हूँ कि तीस करोड़ की आबादी के लिये ५० या ६० हजार से ज्यादा कापियां नहीं बटवाई गईं।

अब इस प्रकार का यह बिल जो कि इतने महत्व का बिल है, जो कि हिन्दु समाज को संगठित करने वाला है, जो कि एक प्रकार से नयी हवा को लाने वाली चीज है, जो कि एक सुधार करने वाली चीज है, इस सुधार करने वाली चीज के विषय में अभिप्राय जानने के लिये कितने लोगों के पास यह बिल पहुंचा और कहां तक इसका प्रचार किया गया यही मैं बताता हूँ। दो महीने की इसके लिये मुद्दत रखी गयी और इसके बाद कमेटी ने दौरा किया। राव कमेटी ने जो दौरा किया वह कितने दिन का था ? वह सिर्फ ३८ दिन का दौरा था। वह दौरा सारे हिन्दुस्तान के सब शहरों में करने नहीं गये, वह दौरा करने किसी भी कस्बों में नहीं गये, वह दौरा करने गांवों में नहीं गये, वह दौरा करने लोगों के बीच जनता में नहीं गये। वह किसी विधवा के पास नहीं गये, वह किसी बेवा के पास नहीं गये कि उससे पूछते कि 'बहन, आपको तो बंगाल में दायभाग की प्रथा के अनुसार सम्पत्ति में हिस्सा मिलता रहता है, फिर आप दुःखी कैसे हो ?' वह मद्रास में नहीं गये और पूछा कि 'वहां तो मातृक सम्पत्ति मिलती है फिर वहां बहनों और लड़कियों को दुःख कैसे है ?' उन्होंने यह पता नहीं लगाया कि क्या विधवायें बंगाल में ही दुःखी हैं या मद्रास में दुःखी हैं या कहीं और जगह भी दुःखी हैं और अगर किसी और जगह भी दुःखी हैं तो उनके दुःखी होने का कारण क्या है ? उनका सम्पत्ति में भाग नहीं है इसी लिये वह दुःखी हैं, यह मैं मानने के लिये तैयार नहीं हूँ। स्त्री सम्पत्ति न होने से ही दुःखी

[श्री गोकुलभाई दौलतराम भट्ट]

होती है ऐसा नहीं है। एक अड़चन जो थी वह यह थी कि छोटी उम्र में विधवा हो जाती थीं और वे न संसार का सुख भोग कर पाती थीं। ऐसी विधवाओं को शादी करने का मौका फिर क्यों न दिया जाय? इसके लिये ईश्वरचन्द्र विद्यासागर, मलबारी साहब ने कोशिश की और मैं समझता कि सन् १८५६ ई० में, या पता नहीं कौन सी साल है, मुझे पता नहीं है, एक विडो रिमैरिज एक्ट उस वक्त आया और अभी तक चल रहा है। लेकिन मुझे यह भी बताइये कि उसके मुवाफिक कितने लोगों ने फायदा उठाया और उसके कारण उनके घरों में क्या सुख आ गया और क्या जान आ गयी? मेरा अर्ज करने का मतलब यह है कि सिर्फ कानून से ही समाज नहीं बदलेगा कोई चीज आप ऊपर से थोप दें तो उससे कुछ बनने वाला नहीं है। इसके बारे में मैं एक मिसाल देना चाहता हूँ और वह है पारसी मैरिज एण्ड डाइवोर्स बिल की। यह बिल पहले सन् १८६५ ई० में बना था और उसका संशोधन करने के लिये सन् १९३६ ई० में यह बिल जो सर कावमजी जहांगीर ने इसी भवन में रखा था मैं उसका इतिहास बताना चाहता हूँ। वह इतिहास यह है कि पारसी समाज के कुछ मित्रों ने यह सोचा, जैसा कि आज हम लोग सोच रहे हैं, कि संशोधन होना चाहिये। कृपलानी जी अपने घर को खतरे में नहीं डालना चाहते इस लिये वह जरूर इस बिल का समर्थन करें। भी मेरे घर को खतरे में नहीं डालना चाहता इस लिये मैं इसका समर्थन करूँ।

श्री कृष्णचन्द्र शर्मा: इसमें सब बड़दे आदमी एक से ही हैं।

श्री गोकुलभाई दौलतराम भट्ट: ठीक है, जवाब मैं अभी शर्मा जी को नहीं दे रहा हूँ। वह तो बीबी का कोट ले कर उसके पीछे पीछे भले फिरते रहे हैं।

श्री कृष्णचन्द्र शर्मा: वह कोट नहीं पहनती हैं।

श्री गोकुलभाई दौलतराम भट्ट: मेरा अर्ज करने का मतलब यह है कि यह पारसी मैरिज एण्ड डाइवोर्स बिल जो था उसके बारे में जब कुछ पारसी मित्रों ने सुझाया कि अब अपने सन् १८६५ ई० बिल का सुधार करना है, उसे संशोधित करना है, तब उन्होंने क्या किया? उन्होंने यह किया कि सन् १९२३ ई० में अपने पारसी पंचायत की एक ला (Law) कमेटी बिठाई। इस कमेटी में क्या हुआ? इस कमेटी ने ऐसा नहीं किया कि एक संशोधन बिल बना दिया और दो महीने की गुंजाइश दे दी, दो महीने में अपनी राय भेज दीजिये फिर हम अपना निर्णय करेंगे। और इस कमेटी ने चार साल तक जो प्रस्तावलि रखी। पारसियों की संख्या कितनी है? एक लाख सन् १९२१ के आधार पर, आज ज्यादा से ज्यादा डेढ़ लाख हो सकती है। चार साल तक

उस कमेटी की रिपोर्ट उनके सामने रही, बाद में फिर उन्होंने मंजूर किया। यह रिपोर्ट फिर पारसी समाज में फैली थी और उस रिपोर्ट पर उन्होंने राय मांगी, सिर्फ बम्बई वालों की नहीं, सिर्फ अहमदाबाद वालों की नहीं, मदरास में रहने वालों की नहीं, बल्कि परशिया में, चीन में जहाँ एक दो पारसी कुटुम्ब रहते थे, वहाँ के लोगों की इस रिपोर्ट पर पहले राय मांगी कि आप क्या मानते हो। पढ़े लिखे या वकील लोग जो होते हैं, वह एक बात को किसी तरह उल्टा, सीधा करके पेश करते हैं कि उनकी बात लोग जो हो वैसी समझ लेते हैं। वे अपने वाक् प्रभुत्व से उसको वैसा समझा देते हैं, लेकिन वैसी वाक् शक्ति जिनके पास नहीं है, उनके पास भी यह रिपोर्ट भेजी गई, क्या बहुमत, अल्पमत सबकी राय मांगी गई। और इस तरह सबकी राय लेने के बाद सन् १९३६ में यह बिल संशोधित करके भेजा और इस तरह वह बिल का विषय १९२३ से लेकर सन् १९३६ तक सामने रहने पर आखिर संशोधित रूप में पास हुआ।

मेरे मन में राव साहिब के लिये आदर है, उन्होंने बहुत काम किया है, उन्होंने विधान बनाने में बहुत बड़ी मदद पहुंचाई है। लेकिन मैं कहना चाहता हूँ कि उस रिपोर्ट में आपने यह बतलाया कि अजी क्या बात है कि थोड़े से आदमी हैं और उन्होंने यह जरूर कबूल किया कि समाज डिवाइडेड (divided) है। रेणुका बहिन तो यहां हैं नहीं, लेकिन उनको कोई दूसरी बात मैं नहीं कह रहा हूँ। १९४३ और ४४ में मैरिज बिल पर वह बोल रही थीं, तब बहिन ने यह कहा था कि अगर रेफरेंडम (referendum) लिया जाय, लोगों की मतगणना की जाय, तो जो जोशीले जवान हैं, जोशीले जवान शब्द उन्होंने नहीं प्रयोग किया, उन्होंने यूथ कहा, यह जोशीले जवान शब्द मैं कह रहा हूँ, एक उसकी व्याख्या कर रहा हूँ, तो जोशीले जवान उनके साथ होंगे, इस बिल के साथ होंगे। मैं इस बहिन को कहना चाहता हूँ, कि जो आप आज छः, आठ बहिनें हैं, क्या यह मानती हैं कि यह हिन्दु कोड बिल बहिनों के लिये है और हमारे आचार्य कृपलानी यह मानने लगे कि यह बिल बहिनों को स्वतन्त्रता देने के लिये है। तो इसका नाम हिन्दु कोड बिल मत रखिये, इसका नाम सिविल राइट्स आफ हिन्दु वीमेन आफ्टर इण्डेपेंडेंस (Civil Rights of Hindu Women after Independence) ऐसा कोई नाम रखिये और जितने अधिकार देवियों को देने हैं, दे दो। क्योंकि हमने सदैव देवियों की पूजा की है, उनका सदैव आदर सत्कार किया है। इन देवियों का तो विवाह के बाद पति का घर ही अपना घर बन जाता है। सचेता बहिन, उनका घर वह बन गया है। हर एक देवी जब अपने पति के यहां जाती है, तो पति का घर उसका घर बन जाता है, और विवाह के बाद पिता का घर उसका नहीं रहता, वह पीहर हो जाता है, घर वहां है जहां उसकी शादी होती है, वह घर उसका हो जाता है, मैं उसके विस्तार में नहीं जाना चाहता हूँ। लेकिन यह बहिनें क्यों

[श्री गोकुलभाई दौलतराम भट्ट]

मानने लगीं कि यह तो हमारा ही बिल है, हमारे लिये ही है, यह एक गलत स्थल है, इसमें जितना बहनों का हक है, उतना पुरुषों के लिये भी हक है। मैं इन दोनों में कोई फर्क नहीं करना चाहता हूँ। इस लिये कोई भाई या बहिन यह नहीं समझे कि यह हिन्दु कोड बिल सिर्फ समाज के एक अंश के लिये है। मुझे माफ़ किया जायेगा, जरा थोड़ी सी मिनट ज्यादा लग जायेगी।

तो मैं यह अर्ज कर रहा था कि उस दिन रेणुका बहिन ने कहा कि रेफरेंडम लिया जाय, तो सभी जोशीले जवान हमारे साथ हैं। १९४७ में राव साहिब ने जब अपनी रिपोर्ट पेश की, तो उस रिपोर्ट में उन्होंने कहा, 'Opinion is sharply divided, some to the left, some to the right.' और जो लोग इसको मानने वाले हैं, वह दिमाग रखते हैं, क्वालिटी (Quality) वाले हैं और जो नहीं मानने वाले हैं, वह सब फुम हैं, उनके पास दिमाग नहीं है, उनकी कोई हैसियत नहीं है, उनमें कोई अवल नहीं है, वह समाज को समझते नहीं हैं। वह समाज को समझने वाले कौन हैं? राव साहिब वगैरा ही समाज को समझने वाले हैं? द्वारका नाथ मिस्टर वह समाज को नहीं समझ सकते हैं। ऐसे लोगों के लिये मैं क्या कहूँ, मालवीय जी जिनकी जयन्ती हमने कल मनाई और कहा कि हिन्दुस्तान में ऐसा सु-नस्कृत (cultured) आदमी मिलने वाला नहीं है, जो ऑर्थोडोक्स (orthodox) भी थे और उसके साथ साथ समाज सुधार के काम में और अधिकारों के बारे में भी आगे जाने वाले थे, इस क्षेत्र में उनसे ज्यादा काम करने वाला कौन था? लेकिन उस आदमी ने कहा, उस पूज्य मालवीय जी ने कहा कि मैं यह ठीक नहीं मानता हूँ कि इस रीति से हिन्दु कोड बिल बनाया जाय। अच्छा, उनकी बात छोड़ दीजिये। सर तेज बहादुर सप्रू को तो जानते ही होंगे, वह भी अवल और होशियारी में किसी से कम नहीं थे, उन्होंने कहा मैं इसके हक में हूँ, लेकिन मैं मानता हूँ कि यह आज मौका नहीं है कि इस तरह का यह बिल बनाया जाय। इससे आगे मैं जाता हूँ। सर चिमनलाल सीतलवाड जिनकी हैसियत किसी से कम नहीं है और जो समाज सुधार में सबसे आगे थे उन्होंने कहा कोडिफिकेशन (codification) मैं नहीं मानता हूँ, अगर्चे मैं विधवाओं और लड़कियों को हिस्सा देने के पक्ष में हूँ। यह समझना कि सिर्फ अपनी सी बात कहनेवाले समझदार हैं और खिलाफ़ बात जो कहते हैं वह सरासर मूढ़ हैं यह ठीक नहीं है। मैं बहनों और भाइयों को इस भवन की मार्फ़त और सभापति जी आपकी मार्फ़त कहना चाहता हूँ कि इस बिल का इस तरह से विचार न किया जाय और मैं अपने माननीय नेता प्रधान मन्त्री पण्डित जवाहरवाल नेहरू जो यहां विराजमान नहीं हैं, उनसे मैं कहना चाहता हूँ कि हिन्दु समाज के कायदों का जो संकलन करना चाहते हैं, जो अलग कायदों को मिलाकर बनाना एक कोड बनाना चाहते

हैं, उसमें मैं जरूर शामिल होता और शामिल हूँ, लेकिन क्या जनता को अपनी राय जाहिर करने का मौका दिया गया है? जब उस छोटे से पारसी समाज ने सारे अंगों को अपने साथ रक्खा, सबकी अलग अलग राय जान ली, तब बिल को आगे बढ़ाया। और तब उनका काम चला, नहीं तो नहीं चल सकता था। १९२१ में सिविल मैरिज एक्ट का संशोधन करने के लिये एक बिल पेश किया था, उनकी मंशा यह थी, जैसी आज भी है। हिन्दु कोड क्यों बनाते हो, इण्डियन कोड बना लीजिये। एक हिन्दुस्तान में सब लोग रहते हैं, सबके रीति, रिवाज भी एक होने चाहिये, जब भाषा एक हो गई तो कोड भी सारे हिन्दुस्तान के लोगों का एक होना चाहिये, जिससे आपस में एकता फैलेगी और जिससे हिन्दुस्तान एक हो जाय। उस समय की बात मैं बतलाना चाहता हूँ कि इसाइयों और मुसलमानों का इतना विरोध रहा कि डाक्टर गौड़ को ऐसा कहना पड़ा: 'Which aroused convulsive opposition from the Mohammedan, and Parsi Communities throughout India. I had no other go but to drop the Bill and bring a new Bill in 1923'. और इस तरह से उनको करना पड़ा। हिन्दु समाज की कोई कद्र नहीं है, जिनमें इतने लोग रहते हैं उनकी कोई कद्र नहीं है। मालवी जी की बात की कोई कद्र नहीं, पट्टाभि साहेब को तो जाने दीजिये, सर अल्लादी को भी जाने दीजिये, लक्ष्मी कान्त मैत्र उनके कहने का कोई महत्व नहीं। और उनके बारे में क्या कहा जाय, राजेन्द्रबाबू जिन को अजातशत्रु कहा जाता है, वह तो बुद्धि और दिमाग के भण्डार हैं और देश के हीरो हैं, और जिसने गांधी जी के विचारों का पालन किया है, और जो आज देश को तो क्या, लेकिन दुनिया को समझा सकते हैं, वह आदमी कहता है कि मेहरबानी करके, आज मौका नहीं है, इसमें कई ऐसी चीजें हैं, जो विवादास्पद हैं, उनको अलग कर दीजिये, उस पर न जाइये। लेकिन क्या करें, हमारे नेता यह कहते हैं कि नहीं इसको जल्दी करना चाहिये, तो जल्दी करें, लेकिन इनना तो रखें कि सब लोगों की इसमें राय व मंजूरी मिल जाये। एक खास फ़ायदा डाक्टर अम्बेडकर साहब ने उठाया। क्या उठाया, मैं बता रहा हूँ। १९४८ में जब यह बिल इन्ट्रोड्यूस किया, तब हमने आपस में बैठ कर यह तय किया कि अभी कोई साहब इस पर बोलेंगे नहीं। न अम्बेडकर साहब ने खास कहा न किसी और ने। उस समय यह सोचा गया था कि आज इस बिल को सिर्फ इन्ट्रोड्यूस करने से बहनों को और दूसरों को जो सुधारक हैं, जो यूनिफिकेशन चाहते हैं, कोडिफिकेशन चाहते हैं, रैशनल हैं, उनको संतोष हो जायगा। अच्छा संतोष हो जाने दीजिये। तो इसका फ़ायदा यह हुआ कि डाक्टर अम्बेडकर साहब ने कहा कि इसे लोगों ने आम तौर से मान लिया, यह बिल ठीक है। नहीं साहब, इसके अन्दर जो कई धारारें हैं, कई चीजें हैं उनको हमने

[श्री गोकुलभाई दौलतराम भट्ट]

नहीं देखा। लेकिन क्योंकि हमारे नेता कहते हैं कि इसको जरा आगे तो चलने दीजिये। हम कहते हैं अच्छा आगे ले जाइये। लाइये इसको बाज़ार में। तो यह बाज़ार में, जुलूस में आया है और हम इसको देख रहे हैं। मैं तो यह कहना चाहता हूँ कि अगर यह सिलेक्ट कमेटी में जाने से पहले हमारी यह सब बहस हो जाती तो डाक्टर अम्बेडकर साहब और सिलेक्ट कमेटी के हमारे मित्रों को बहुत फ़ायदा पहुंचता। उनको यह मालूम होता कि कौनसी चीज़ कैसी बनानी चाहिये। अब हम एक प्रकार से उलझन में पड़ गये हैं। उलझन यह आई है कि अगर हम कहते हैं कि इसे फिर से सिलेक्ट कमेटी में भेजा जाय तो मालूम नहीं कायदे कानून के कैसे चंगुल में हम फंस जाते हैं। अगर हम कहते हैं कि इसको अभी बन्द कर दिया जाय तो हमारे ऊपर एक और तलवार खड़ी है। अब हम करें क्या? हम बहुत ही पेच में फंस गये हैं। उसमें से निकालना हमारे नेताओं का और भगवान का काम है।

मैं यह कह रहा था कि इस चीज़ को आज इस मौके पर लाने की इस लिये जरूरत नहीं है कि हमने हिन्दु समाज की राय नहीं जानी है। हिन्दु समाज और वह भी शहरों का है जिसकी राय ली गई है उसमें कितने आदमी थे। १२१ व्यक्तियों ने तथा १०२ संस्थाओं ने लिखित बयान दिये और जिनकी गवाही हुई है। अब क्या यह कहें कि यह हिन्दु समाज की बात है? मिस्टर मित्र ने जो राय दी है उसके माफ़िक अगर आप देखना चाहें तो मैं बताने को तैयार हूँ, उसमें भी अलग अलग हिस्सों के लिये एक मद्रास को छोड़ कर सब जगह उसका विरोध किया गया है। जो दायभाग वाले हैं, उन्होंने बंगाल में विरोध किया। अच्छा यह बम्बई वालों का विरोध आया है। क्योंकि यह विरोध होता रहा, और और कारण हो गये, इस लिये इसका विरोध हो गया। इस विरोध के होते हुये भी हम यह कहें कि नहीं अल्पमत वाले जो कहते हैं वही सही बात है और वह आपको मानना पड़ेगा, यह बहुत मुश्किल चीज़ है। हिन्दु समाज का संगठन किया जाय, जरूर कायदे की दृष्टि से होना चाहिये। मैं यह कैसे कह सकता हूँ कि स्त्रियों को, बहनों को कोई हिस्सा नहीं देना चाहिये। दिया जाय, लेकिन बहनों को खुद को पूछ लीजिये कि हिस्सा मिल जाने के बाद आपको पीहर से कोई प्यार रहेगा। कितनी मुहब्बत रहेगी। यह पूछिये तो सही आज कल जो मुधरी हुई बहनें हैं, उनसे कि उनका बाप कहां रहता है, भाई कहां रहता है, वह अपनी अपनी घोलकी में, अपने अपने घर में, महल में बैठे रहते हैं; सम्बन्धी को पूछने भी नहीं, ऐसे आज के मुधरे हुये आदमी हैं, तो अगर हिस्सा हो गया तो बाद में हम क्या करेंगे? लेकिन बात मैं यह बनाना चाहता था कि इतनी सब चीज़ें होते हुये भी यह अल्पमत की बात हमारे सामने आती है, अभी सबकी राय नहीं जानी है, तब भी हमारे ऊपर इसका दबाव डाला जा रहा है, और दबाव डाल कर कहा जा रहा है कि इस चीज़ को लो, यह नहीं देखते कि बाद में कितनी उलझनें पैदा हो जायंगी।

तो मैं कहना चाहता हूँ कि मेहरबानी कर के आप इसमें कोई बीच का रास्ता निकालिये। बीच का रास्ता निकालने से ही हमें सन्तोष होगा, समाज को सन्तोष होगा, जो हलचल है वह बैठ जायगी। आज जैसा हमारे पाटस्कर जी ने कहा कई उलझनें हैं, इस वक्त एक और बड़ी उलझन क्यों रखते हो। एक दूसरा कांटा क्यों बोते हो जिसको साफ़ करने के लिये, जो रास्ता बिगड़ जाय उसे साफ़ करने के लिये हमें और विशेष मेहनत करनी पड़े। ऐसा क्यों करते हो? मेहरबानी करके कुछ दूसरा काम कीजिये और इसको एक दो साल के लिये आगे को रखिये। मैं अपनी बहनों से कहना चाहता हूँ, जो बहनें इसका आदर करती हैं, अपनी उन बहनों से जो देवियां हैं कि देश की भलाई के लिये आपको ही कहना चाहिये, हमारे जवाहरलाल जी से जा कर कहना चाहिये कि मेहरबानी करके इस चीज़ को एक साल या दो साल के लिये रोक दीजिये। इस तरह से इसके अन्दर बहुत सी चीज़ें बन जायेंगी लेकिन वह तो यह सोचती हैं कि आज या १९५० में यह बिल अगर पास न हुआ तो कभी नहीं होगा क्योंकि आगे जो लोग आयेंगे वह बिल नहीं पास करेंगे। लेकिन मैं कहना चाहता हूँ कि अगर आज अपना कोड आपने पास भी कर दिया तो आइन्दा क्या होगा? यहां बैठने वाले लोग ऐसे आयेंगे जो यह कहेंगे कि पहला काम हमारा यह होगा कि यह जो हिन्दु कोड बना है उसको सुधार दें। इस लिये मैं अर्ज करना चाहता हूँ कि मेहरबानी करके अगर इस चीज़ को रोक सकते हैं तो जरूर रोकिये। अगर नहीं रोक सकते हैं, नाट टु दि लेफ़्ट, नाट टु दि राइट, देन कम इन दि मिडिल; फाइण्ड आउट दि गोल्डन मीन (Not to the left, not to the right, then come in the middle; find out the golden mean). और इससे ही समाज को सन्तोष हो सकता है।

दूसरी बात यह कि डाक्टर अम्बेडकर साहब ने मिस्टर सर्वटे के प्वाइण्ट आफ़ आर्डर का जवाब देते हुये कही और डिप्टी-स्पीकर साहब, आपने भी इसका समर्थन किया था कि यह बिल सिर्फ़ प्राविन्सेज़ (provinces) के लिये, जो कि आज के प्रान्त हैं उन पर ही लागू होने वाला है। और अगर रियासतों पर लागू करेंगे तो रियासतों के पास यह बिल भेजा जायगा, इस बिल को सर्व्युलेट किया जायगा और उसके बाद हम देखेंगे कि इसमें क्या हो सकता है। डाक्टर अम्बेडकर साहब ने यह बताया था कि

"When the occasion comes for the extension of the Bill to the Indian States, no doubt this legislature, when a proper motion is placed before it, or the Government of the day will take note of their wishes and intentions and the states which have come into the Indian Union will be consulted."

यह बात है तो एक चीज़ जो आज बन गई, छः महीनों के बाद फिर रियासतों के पास भेजी जायगी, और रियासत वाले जो करेंगे तब क्या होगा कि आप और

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आगे चले जायेंगे। रियासतवाले तो वैसे ही कुछ पीछे हैं, वह और भी पीछे हो जायेंगे। तो मेहरबानी करके इस चीज को आप अपनी निगाह में रखिये कि क्या हो सकता है।

मुझे यह कहने की आज्ञा दीजिये कि राय जानने का तरीका मुकम्मिल नहीं था यह मैंने बताया दिया। लेकिन हमारा विधान जो हमने ढाई तीन साल में बनाया, उसमें हमने कितनी सावधानी बरती है, तो भी हमारे कितने भाई कहते हैं कि निकम्मा बना। हमने प्रान्तों की सरकारों को पूछा, उनके पास विधान का मस्विदा भेजा, और वहाँ धारासभाओं में, मन्त्रिमण्डल में उसकी चर्चा हुई और उन्होंने अपनी राय भेजी। यह आप जानते हैं कि राव कमेट्री ने रिपोर्ट का ड्राफ्ट किसी प्रान्तीय सरकार के पास राय के लिये भेजा ही नहीं था। इस तरीके से यह चीज आई है। इसी लिये मैं कहना चाहता हूँ कि यह जो राय ली गई है वह मुकम्मिल तौर से नहीं ली गई। और जिस आधार पर आपका यह दावा है वह भी मुकम्मिल नहीं है। इसमें मुझे शक नहीं क्योंकि रेणुका बहन ने कहा था कि हाफ आफ दि कण्ट्री विल बी विड इट। लेकिन राव कमेट्री की रिपोर्ट ने कहा है कि सोमायटी इज बेरी मच डिवाइडेड। यह देखने हुये मैं किमकी बात मानूँ। जिन्होंने जांच करके १९४७ में रिपोर्ट दी है उनकी मानूँ या रेणुका बहन की १९४८ की बात मानूँ?

मिस्टर डिप्टी-स्पीकर: अभी कई मेम्बर व्याख्यान देने के लिये हैं, मेहरबानी करके खत्म कीजिये।

श्री गोकुलभाई दौलतराम भट्ट: मैं पाँच सात मिनट में खत्म करता हूँ। अगर आपकी इजाजत हो तो कुछ बातें और कह दूँ।

मिस्टर डिप्टी-स्पीकर: आपकी खुशी है। तीस मिनट खत्म हो गये।

श्री गोकुलभाई दौलतराम भट्ट: दो बात कह करके मैं बहुत जल्दी से खत्म करता हूँ। मैं यह पूछना चाहता हूँ, साहब, यह हिन्दु समाज ही ऐसा समाज है कि जितनी लकड़ी मारो उतनी वह खायगा। मुस्लिम समाज है, उसका कोड (code) बनाने की किमी ने हिम्मत की? शिया और सुन्नी स्कूल आफ थाट को मिलाइये, क्रिश्चियन ला जो है, इसाईयों का जो ला है, उसमें गड़बड़ करने की ज़रा हिम्मत कीजिये, और पारसियों में भी ज़रा हिम्मत कीजिये। यह बेचारा समाज जो सब कुछ सहन करता है, क्योंकि मरा हुआ है इस लिये? अम्बेडकर साहब जो अपने को शूद्र जाति का मानते हैं, मैं तो कहता हूँ कि आप बहुत बड़े हैं, आपको कोई मुनि बना रहा है,

कोई ऋषि बना रहा है, और आप कहते हैं कि आप शूद्र हैं, शूद्र हैं, तो विश्वामित्र हो जाइये। आप जो कुछ हैं वह तो हैं ही, परन्तु बुद्धिमान हैं। (Inferiority complex) क्यों रखते हो? और उन्होंने कहा कि स्मृतियाँ बनती रहनीं। ब्राह्मणों को काम ही क्या था, लिखते रहे। आपका डिपार्टमेण्ट क्या काम करता है? वहाँ काम स्मृतिकारों का था। वह एक डिपार्टमेण्ट था जो समय समय पर कायदे कानूनों को संशोधित करता रहता था। जिस तरह आप कानूनों में संशोधन करके पेश करते हैं उसी तरह वह भी करते थे। तो इस प्रश्न में मैं नहीं जाना चाहता और न मैं दूसरी बातों में जाना चाहता हूँ। मैं यह कहना चाहता हूँ कि बहिनें यह चाहती हैं कि यह चीज फ़ण्डामेंटल राइट्स में आ जाती है और जो लोग इसका विरोध करते हैं उनके लिये यह कहा जाता है कि तुम फ़ण्डामेंटल राइट्स को नहीं समझते हो। यू डू नाट अण्डरस्टेण्ड दी फ़ण्डामेंटल राइट्स। यह फ़ण्डामेंटल राइट्स हैं या यह स्टेट ला है। हिन्दू कोड क्या स्टेट ला है या पर्सनल और प्राइवेट ला है? अगर आप इण्डियन कोड का विल लाना चाहें तो मैं दावे के साथ कह सकता हूँ कि बोर्ड भी उसका विरोध नहीं करेगा, लेकिन आज आप हिन्दू कोड विल बना रहे हो और हिन्दु ला में तबदीली कर रहे हो, (but personal law not a State law and therefore it does not apply). गौड़ ने कहा था कि जब कोई "अवतार" होगा तब इस कोड को लायेगा। गौड़ साहब शायद नागपुर में बैठे होंगे और अब उनको यह सुन कर तसल्ली हुई होगी कि "अवतार" का प्रादुर्भाव हो गया है और हिन्दू कोड विल आ गया है।

श्री महावीर त्यागी: कलंकी।

श्री गोकुलभाई दौलतराम भट्ट: मैं दो चार मिनटों में और बात कह कर खत्म करना चाहता हूँ। कहा जाता है कि बहिनों और भाइयों को एक सा रहना चाहिये। कृपलानी जी तो चले गये, वह किसी की बात क्यों सुनेंगे? तो मैं यह कहना चाहता हूँ कि बहिनों को डबल (double) अधिकार क्यों दिया जायगा। वह अपने पीहर से स्वीधन ले जायगी, दहेज में और दूसरी चीजें जो बाप देगा वह ले जायगी और फिर अपना हिस्सा भी ले जायगी और पति के घर में तो उसका हिस्सा है ही। तो यह बहनें इतनी स्वार्थी कैसे बन गईं? यह देवियां तो स्वयं माया हैं, यह और माया क्यों चाहती हैं? श्रीमती कमला बहिन कहती हैं कि माया तो माया के ही पास जायगी। यह तो स्वयं माया हैं, यह माया में और वृद्धि क्यों करना चाहती हैं? जो थोड़ी सी माया अब तक इनके पास है उससे तो यह संसार को बशीर्भूत कर सकी हैं और अब ज़्यादा माया बढ़ जायगी तो मालूम नहीं क्या हो जायगा? अगर माया

[श्री गोकुलभाई दौलतराम भट्ट]

माया के पास जायगी तो संसार में प्रकृति ही प्रकृति को रखिये और पुरुष को निकाल दीजिये, अगर पुरुष के बिना माया का चलना हो तो ऐसा कीजिये ।

हमारे ट्रावनकोर और कोचीन के मित्र बहुत आगे बढ़े हुये हैं लेकिन उनको भी ध्यान रखना चाहिये कि उनके अकेले अग्रे जाने से काम नहीं चलेगा । गांव के गंवारों को भी उन्हें अपने साथ रखना चाहिये और अगर उनको भी साथ लेना है तो मेहर-वानी करके और ज्यादा प्रचार कीजिये और उनको समझाइये, तो इस तरह सब कुछ हो जायगा । इसमें मन्देह नहीं है । कई जगह यह कहा जा रहा है कि यह उलटी गंगा बहाई जा रही है और यह कुछ अंश में ठीक भी है । जो पानी जिस ढाल से बह रहा है उसको उमी ढाल से बहने दीजिये और अगर आप यहां अल्पमत को ठुकरा कर उलटी गंगा बहा देंगे तो अभी आप ऐसा कर सकते हैं, लेकिन आयन्दा इस किस्म का जमाना आयेगा कि इसमें ऐसे संगोधन हो जायेंगे जो आप कहेंगे कि यह क्या हो गया । वही होगा जो होने वाला है । तो मैं दूसरी बातों में नहीं पड़ता हूं ।

मैं एक बात और कहना चाहता हूं कि हमारे स्मृतिकार याज्ञवल्क्य मनुस्मृति से भी जरा आगे गये हैं । मैं इस जगड़े में नहीं पड़ना चाहता कि यह मनुस्मृति कौनसे मनु की बनाई हुई है क्योंकि मनु तो बहुत से हुये हैं । परन्तु याज्ञवल्क्य स्मृति के भाष्यकार श्री विज्ञानेश्वर ने जो मिताक्षर लिखने वाले हैं और दायभाग और जो मयूख भाष्य के लिखने वाले हैं उन्होंने अलग ही अपनी राय रखी है । मैं सारे उदाहरण तो नहीं देना चाहता । पर उन्होंने कहा है कि यदि स्त्री को स्त्रीधन न दिया गया हो जितना अंश पुत्र को मिले उतना ही स्त्री को भी मिलना चाहिये । यह स्पष्ट रूप से कहा गया है । मैं दावे के साथ कहना चाहता हूं कि स्त्रीधन का जिक्र हमारी स्मृतियों में है । इंग्लैण्ड के लोगों ने अभी तक अपने कानून को कोडीफाई (codify) नहीं किया । मैं यह बताना चाहता हूं कि अंग्रेजों की बुक आफ प्रेयर्स (Book of Prayers) में शादी के लिये जो निषिद्ध पीढ़ियां दी गई हैं वह १५६५ में निश्चित की गई थी । वही सन् १९१५ तक चली आई हैं और १९१५ में सिर्फ एक पीढ़ी में परिवर्तन, किया है कि साली (wife's sister) से शादी नहीं हो सकती थी । तो मैं तो कहना चाहता हूं कि इससे तो हम बहुत आगे गये हैं । उनको एक पीढ़ी बदलने में कितनी सालें लगीं और यहां सिविल मैरिज ऐक्ट (Civil Marriage Act) में सेकण्ड कजिन्स (Second Cousins) को भी विवाह करने की अनुमति दे दी गई है । सिविल मैरिज (Civil marriage) जिसको करना हो कर ले, लेकिन उसकी सत्र पर क्यों पाबन्दी लगाते हैं ? सिविल मैरिज ऐक्ट में सेकण्ड कजिन्स की गजाइश रखी है । जो उसके अनुसार चलना चाहें चलें ।

इस कोड (Code) को बनाने में हमको प्रिंसिपलस आफ यूजनिक्स (Principles of Eugenics) का भी ध्यान रखना चाहिये । ऐसी बात नहीं है कि स्मृतिकार के जो मन में आई वही लिख दिया । हमारे स्मृतिकार मानव शास्त्र के अभ्यासी थे । वे मामूली आदमी नहीं थे । वह एक बड़े जानकार थे । जो उनका लेख था वह मुकम्मिल था और प्रौढ था । उनके लेखों में ६, ८, १० या १२ महीने के ही बाद परिवर्तन करने की आवश्यकता नहीं होती थी । वह स्मृतिकार बड़े बुद्धिमान थे और जो कुछ उन्होंने लिखा है उसमें संगोधन करने के लिये सैकड़ों साल तक विचार करने की आवश्यकता है । आप उसमें संगोधन अवश्य कीजिये क्योंकि युग युग में स्मृतियों में संगोधन होते रहे हैं, लेकिन हमको पूरी तरह विचार कर लेना चाहिये कि ऐसा करने से समाज का फायदा है या नुकसान है ।

श्री एच० बी० कामत : क्या इस हाउस (House) के मेम्बर बुद्धिमान नहीं हैं ?

मिस्टर डिप्टी-स्पीकर : आगे बढ़िये ।

श्री गोकुलभाई दौलतराम भट्ट : मैं इतना बुद्धिमान और पंडित नहीं हूं जितने श्री कामत हैं । मैं यह नहीं कहता कि यहां के मेम्बरों में बुद्धि नहीं है । हर एक आदमी में अपनी बुद्धि होती है, हर एक आदमी सोच सकता है । लेकिन मैं यह कहता हूं कि मैं डाक्टर अम्बेडकर की बात इस तरह नहीं मान लूंगा जैसे बाबा वाक्यम् प्रमाण हो । उसी तरह अगर कोई पण्डित आकर कहे कि जो अन्त्यजों के साथ किया गया वह ठीक नहीं है तो मैं उसको भी नहीं मानूंगा क्योंकि मैं बाबा वाक्यम् प्रमाणम् का मानने वाला नहीं हूं । लेकिन मैं अर्ज यह कर रहा था कि जो स्मृतिकारों ने किया है वह समाज को अपने सामने रख कर किया है । यह ठीक है कि उस समय का समाज जिस तरह का था उसी के अनुसार स्मृतियां बनीं । आज हमारे समाज में अनेक सम्प्रदाय वाले हैं, अलग अलग जगह के रहने वाले हैं, अलग अलग चीजों को मानने वाले हैं । सिख हैं, जैन हैं, बौद्ध हैं, अनेक मतों को मानने वाले हैं, तरह तरह के लोग उसमें हैं । वह अनेक फ़िरकों में बंटे हुये हैं । उन सबको सम्मिलित करना कोई मामूली चीज नहीं है ।

सभापति जी, मैं अब थोड़ा ही और ज्यादा समय लूंगा । मैं अर्ज कर रहा था कि डाक्टर अम्बेडकर साहब ने कहा कि :

“Custom will eat into the code and therefore custom should not prevail”

दूसरी जगह कहते हैं कि जितने राजाओं और जागीरदारों का उत्तराधिकार हक है, जिसका ला (Law) नहीं होना चाहिये वहां पर वह कहते हैं कि वह बने रहें । जहां पर रीति रिवाज और कस्टमरी राइट्स (Customary rights) का हक होता है वहां पर वह कहते हैं कि यह नहीं होना चाहिये ।

[श्री गोकुलभाई दौलतराम भट्ट]

एक सक्सेशन (succession) की बात आती है और जहां पर दूसरी बात एडोप्शन (adoption) की आती है, तब वहां पर वह कहते हैं कि ये रूढ़ी रिवाज जारी नहीं रहने चाहिये। यह दोनों बातें नहीं चलेंगी। आप या तो खत्म कर दीजिये, एक सा मैदान कर दीजिये, बिल्कुल सफ़ाचट कर दीजिये। सभापति जी, मैं फिर आपसे कहता हूँ कि दूसरी जगहों पर छोटी छोटी कान्फ़्लिक्ट्स हो रही हैं जिनकी वजह से मुझे बोलने में दिक्कत मालूम हो रही है।

An Honourable Member : He is repeating the same arguments.

The Honourable Dr. B. R. Ambedkar : It is now one hour since the gentleman has been speaking.

Mr. Deputy Speaker : Order, order. The best way of asking him not to speak longer is not to make noise but to leave him alone so that I may ask him to complete his speech early. The hon. Member knows that many other Members are anxious to speak. He has already taken more than 45 minutes.

श्री गोकुलभाई दौलतराम भट्ट : मैं आपका आभारी हूँ। तो मैं आपसे यह अर्ज कर रहा था कि एक जगह आप कहते हैं कि रूढ़ी का कोई प्रोब्लम (problem) नहीं है, यह रीति रिवाज नहीं चलने चाहिये। दूसरी जगह अगर उसके माफ़िक काम होगा तो इसमें हिन्दु कोड बिल खत्म हो जायगा। यह दोनों बातें मैं नहीं चाहता। आप हम से कहते हैं कि ज्यादा अनाज उगाओ। तो हमारे पास जितनी भी ज़मीन है, चाहे उसमें बाग लगे क्यों न हों, चाहे अच्छे अच्छे लान (lawn) क्यों न हों, अगर हमको अनाज उगाना ही है तो हम को इन सब ज़मीनों पर अनाज उगाना चाहिये। एक तरफ़ तो आप यह चाहते हैं कि आपके लान (lawn) भी अच्छी तरह से रहें और दूसरी तरफ़ आप यह चाहते हैं कि अनाज भी ज्यादा उगाया जाय। ऐसा रास्ता मुझे पसन्द नहीं है।

आप ज़रूरते हैं कि रूढ़ि क्या चीज़ है, कुलाचार, ग्रामाचार और देशाचार को समझना चाहिये। शास्त्र से रूढ़ि प्रबल है। "शास्त्राद् रूढ़ि बलीयसी" (custom overrides the sacred laws). शास्त्र के माने क्या हैं? शास्त्र, शास्त्र कहके आप लोग समझते होंगे कि यह पागलपन की बात कर रहा है। शास्त्र एक विज्ञान है, शास्त्र एक निबन्ध है एक साइन्स (science) है और शास्त्र एक ला (law) है। वह एक स्मृति है। उसके बाद आप कोई ऐसी चीज़ की कद्र करना नहीं चाहेंगे। तो वह इस तरह के झगड़े में नहीं जाना चाहगा जो कि इव डाइवोर्स (divorce) की उलझन

ने डाल दी है। एक आदमी और एक स्त्री पंचायत में बैठकर यह कहते हैं कि हम एक दूसरे से छुटकारा पाना चाहते हैं। वह कहते हैं कि हमने संसार का सुख भोग लिया है और दूसरी जगह जाना चाहते हैं। वह इस झमेले में नहीं पड़ेंगे कि वह ज़िला कोर्ट या हाईकोर्ट में इस चीज़ के लिये जायें। अगर वह इस तरह से करेंगे तो वहां पर उल्टा हो जायगा।

जब मैं गांव में जाऊंगा तो मैं लोगों से कहूंगा कि हिन्दु कोड बिल इस तरह से तैयार किया गया है और उसमें इस तरह की बातें हैं। तो वह लोग कहेंगे कि हम ऐसा नहीं चाहते हैं। जो हमारे गांवों में पंचायतें हैं वह ठीक हैं, वह जिस तरह से चल रही हैं वह चलती रहें। हम इस तरह के कायदे कानूनों के झमेलों में नहीं पड़ना चाहते जिससे कि वकीलों की बन आयेंगी और गरीब ज्यादा गरीब हो जायगा। आपकी यह मेहरबानी है। यह बातें आमतौर से हिन्दु ला में हैं।

सभापति जी, मैं यह अर्ज कर रहा था कि इन सब बातों का निचोड़ क्या होने वाला है। हर एक विषय को लेकर मैं यहां पर नहीं कह सकता हूँ। क्योंकि मेरे पास इतना समय नहीं है कि मैं इन सब बातों को बतलाऊँ। और भी मेरे बहुत से भाई इस पर बोलने वाले हैं।

तो सभापति महोदय, मैं यह कहने जा रहा था कि यह एक बड़े महत्व का सवाल है। यहां पर जिन भाइयों ने इसके बारे में अपना मत दिया है कि वह पास हो जाना चाहिये मैं उनसे प्रार्थना करूंगा कि वह इस बात को अच्छी तरह से सोच विचार लें। यह जल्दबाजी से काम करने का समय नहीं है। जनता के सामने आप लोगों को जवाब देना होगा। मैं बहुत अदब से अपने माननीय नेता पण्डित जवाहरलाल जी से भी प्रार्थना करना चाहता हूँ कि यह चीज़ जो हमारे सामने आई है, वह इतनी महत्व की चीज़, इतनी ज़रूरी चीज़ है कि उस पर अच्छी तरह गौर करना बहुत ही ज़रूरी है। इस चीज़ पर सब लोगों की राय ली जानी भी बहुत आवश्यक है। श्रीमती रेणुका वहिन ने रेफ़रेण्डम (referendum) के बारे में कहा था। तो मैं यह कहना चाहता हूँ कि आयन्दा चुनाव होने वाले हैं। उस समय आप इस पर मत ले सकते हैं कि आया जनता इस हिन्दु कोड बिल को चाहती है या नहीं। आप जनता के सामने यह रख सकते हैं कि हम इस तरह का हिन्दु कोड बिल रख रहे हैं वह आपको पसन्द है या नहीं। अगर इस पर आपको मत मिल जाय तो आप खुशी के साथ इसको यहां पर पास कर सकते हैं। यह रेफ़रेण्डम का तरीका माना जाय। मैं अखबारों की बातों पर आने वाला आदमा नहीं हूँ। अखबार जिस तरह की बातें लिखते हैं, जो चीज़ उनमें लिखी जाती है, वह तो सिर्फ़ अपने अखबार को

[श्री गोकुलभाई दौलतराम भट्ट]

चलाने के लिये, इस तरह की बातों को बढ़ाचढ़ा कर लिखा करते हैं। मुझे अखबार वालों से कोई द्वेष नहीं है। मैं उनके साथ सहानुभूति रखता हूँ और मेरी उनसे हमदर्दी है। लेकिन जहाँ तक रेकॉर्डम लेने का सवाल है, मैं अपनी बहिन रेणुका जी से जो कि इस समय पर मौजूद नहीं हूँ, दूसरी बहिनों से यह कहना चाहता हूँ कि चन्द महीनों के बाद चुनाव होने वाला है, उस समय आप जनता के सामने यह रख सकती हैं। आप जनता से यह कह सकती हैं कि हमने इस तरह से हिन्दू कोड बिल रखा है और पास करना चाहते हैं। अगर जनता ने आपको इस बारे में मत दे दिया तो हम अवश्य इसको यहाँ पर पास कर सकते हैं।

तो मैं गवर्नमेण्ट से प्रार्थना करना चाहता हूँ कि वह इस बात पर विचार करे और इस समय इसको पास न करें। अन्त में मैं यही कहूँगा : "Not to the left, not to the right, come in the middle to find out the golden mean."

(English translation of the above speech.)

Shri Gokulbhai Daulatram Bhatt (Bombay States): Sir, ever since the Hindu Code Bill has been before the House, it has agitated the minds of the people in India. Dr. Sen claims that the Bill has already been before us for the last fifty or sixty years. But, in the books I have gone through in this connection, nowhere, I have been able to find a reference to any earlier existence of this Code. There was however, a Hindu Law, changes wherein, have, no doubt, been engaging the attention of the Hindu society from time to time. It was only after 1939 that we have come to know of this Hindu Code Bill in its present form. There may have been some talk on the occasion Dr. Deshmukh had brought the Marriage Bill before this very House in 1938.

Dr. P. K. Sen (Bihar: General): May I just explain? I said that it had been before the legislative anvil for longer than 60 years, i.e., from 1856 or 1855, but that was with reference to the Marriage Law, not at all in respect to other aspects.

Shri Gokulbhai Daulatram Bhatt: I also say that only some of its aspects were before us and before the Hindu society. In fact such issues were not facing the Hindus only, the Parsis and the Muslims were similarly confronted by them. I mean only to give you some glimpses of the history of the manner in which this Hindu Code Bill has been brought before the House and the circumstances under which the Committee called the 'Rau Committee' was set up. I want also to give you an idea as to the time-limit fixed for framing the rules and regulations concerning the social structure of the Hindu society populating over 30 crores as also the methods employed for publicity and elicitation of public opinion or for ascertaining any other reaction. Whether the Hindu Code Bill should be introduced or not, the Hindu society should be integrated or not, or whether or not there should be a synthesis of the various piecemeal legislation of the Hindu Law are not the real issues. I want to draw your attention to the fact that the Rau Committee was set up on January 20, 1944; they undertook the work and got a Draft Bill ready. The public came to know of this Bill on August 5, 1944 when they were given two months thereafter to send in their opinions by October 5, 1944. Sir, I will like to point out also that only 1,000 copies of this Bill were printed by the Government of

India for a population of 30 crores. Subsequently 3,000 more copies were printed under pressure of public demand.

Shri Mahavir Tyagi (U.P.: General): Were they printed in English or Hindi?

Shri Gokulbhai Daulatram Bhatt: All the 4,000 copies were printed in English. Thereafter Shri Rau had asked the Provincial Governments to get a translation of the Bill printed and distributed. Despite this translation, to my knowledge not more than 50 to 60 thousands of such copies were distributed in all in a population of 30 crores.

Now I would proceed to speak about the extent of publicity and circulation among people to ascertain their reaction to a Bill of this type which is of so much importance; which aims at integration of the Hindu society, which seeks to introduce a new way of life and which is considered to be a reformatory measure. A time-limit of two months was fixed for this purpose and thereafter the committee undertook a tour of the country. Their tour lasted for 38 days only. They did not visit all the cities and left out all towns and villages. Never did they care to go in the midst of people at any time during this tour nor approach any widow to enquire about the reason for her misery even though she may have continued to share property in accordance with the Dayabagh system of Bengal. They never went to Madras to know why our sisters and daughters were unhappy there in spite of the matriarchal system of sharing property. They did not find out whether widows were in distress in Bengal or Madras only or their fate was the same all over and, if so, what could be the possible reason for such distress. I can't agree to the plea that they are in a miserable state only because they possess no share in the property. This is not the case. Their miseries exist not solely because of having no property whatsoever. Formerly a hitch existed that the women widowed in a young age could not seek worldly enjoyments. There was hardly any justification in refusing an opportunity for second marriage to such widows. Ishwar Chandra Vidya Sagar and Malabari Saheb made efforts in this behalf and though I do not remember it clearly but I think it was in 1856 that a Widow Remarriage Act was passed and is in force till-date. I would, however, like to know the number of people who availed its benefits or the nature of happiness and prosperity towards which this Act has contributed. I mean to submit that the mere legislation cannot bring a change in the society or nothing material can result by thrusting something down the people's throats from above. I wish to cite the Parsi Marriage and Divorce Act as an instance. The Act was first enacted in 1865, and Sir Cowasji Jehangir had placed a Bill to amend the original Act before this very House in 1936. I intend to go in history of that very amending Bill. Some friends of the Parsi Society felt the necessity for amendment just as we are feeling at present. Kripalaniji is required to support the Bill so that his home may not be in danger. Likewise I have no desire to put mine in danger. Should I also support it for that matter?

Shri Krishna Chandra Sharma (U.P.: General): In this respect all aged men behave alike.

Shri Gokulbhai Daulatram Bhatt: Quite right. I don't wish to reply Sharmaji just now. He may continue to follow his wife everywhere carrying her coat.

Shri Krishna Chandra Sharma: But she never puts on a coat.

Shri Gokulbhai Daulatram Bhatt: My intention in this submission is to explain the course of action adopted by the Parsi friends once they had thought to reform and amend their Bill of 1865. What did they do? They set up a

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Law Committee from among their *panchayat*. And what did this Committee do? It did no such thing as to hammer out an amending Bill, fix two months as time-limit to elicit public opinion and arrive at the decision thereafter. They had with them a questionnaire for four years which among other things wanted to know the number of Parsis who on basis of 1921 Census might be one lakh in all or at the most one and a half lakhs. The report was before them for another four years and it was only after that they had accepted the proposal. The Report was circulated in the Parsi Society again and opinions were invited on the same. These opinions did not come from Bombay, Ahmedabad or Madras people alone. Rather Parsis living in Persia and China, may be only a few of their families may have been there, were consulted first on that Report and their desire ascertained. The educated persons and the lawyers always present an issue in a distorted way and people, somehow accept their version of a thing. Being gifted with a powerful faculty of argumentation, they are competent to impress others in the way of their liking. But the Report in question was circulated even among those who possessed no such faculty. Opinions were invited from all groups irrespective of their being in a minority or a majority. Thus, when everyone was consulted in 1936 the Bill was sent in an amended form. So the issue embodied in this Bill continued to engage their attention from 1923 to 1936 and the same was ultimately passed in an amended form.

I have much respect for Shri Rau. He has laboured very hard and has been of great help in the framing of the Constitution. But I will submit that he has mentioned this fact about consulting only a very few persons in the Report itself and thinks no harm in that. He, however, did agree that the society was divided on the issue. Sister Renuka is not present here just now, but I have to say no different thing about her as well. She was speaking on the Marriage Bill in 1943-44. On that occasion she had laid a claim that if a referendum were to be held and all votes to be counted, then all the young men of high spirits (Joshila Jawans) will be found to have supported that Bill. She had not used the phrase 'joshila jawans.' I am merely elucidating the original phrase *viz.* 'the youth' used by her. I wish to submit it to my sister along with the other six or eight in this House that if they really think the Bill a very necessary one in the interests of women like our Acharya Kripalani who has come round to see in it the liberation of our women then, please, do not give it a title like the Hindu Code Bill. Name it the Post Independence Civil Rights of Hindu women Bill or something like that. Thereafter you may proceed to give them as many rights as you please. After all we have always shown reverence and done honour to our women. Our ladies accept their husband's house as their own after marriage. Sister Sucheta has set up a house likewise. Once a woman goes to her husband's house, that house becomes her's also; she can claim her father's house as her own no more, it becomes merely her father's place from the time of her marriage. Her house is the one into which she is married. I need not go into further detail. But our sisters are wrong to think that it is a Bill of theirs only and for them only. Men have a right to it as much as the women do. I don't want to discriminate anyway between them on this score. So no man or woman should take it that the Bill concerns a particular section of the society exclusively. I shall be excused if I take rather a longer time.

So I was telling how sister Renuka had laid a claim for the support of all the enthusiastic youngmen in case of a referendum. In the Report submitted by Shri Rau in 1947, he said: 'Opinion is sharply divided, some to the left, some to the right.' Also that those in favour of the Bill were persons of brain and quality whereas the others opposing it were mere idiots, devoid of any brain, possessing no status in life and without any sense to understand the society and its complexities. May I know who, then, are those who understand the society and its problems? Does Shri Rau understand it? And

does the Dwarka Nath Mitter really not understand it? I have nothing to say about those people. But there is no one who could lay a claim to more work in this field than Malaviyaji, whose birth anniversary we have celebrated only yesterday and acknowledged him as an unequalled cultured man. He, though an orthodox, was always in the fore-front in the matters of reformation of the society and rights of the people. But that very venerable Malaviyaji had not thought it to be a proper way in which the Hindu Code Bill was being ushered in. We may not heed him. You all know Sir Tej Bahadur Sapru quite well. He too was second to none in wisdom or intellect. He had declared himself to be in favour of the Bill, but had agreed that it was not a suitable time to frame a Bill of this type. I go further. Sir Chinman Lal Sitalwad enjoyed a status in life not less than any other man and had always taken a leading part towards reformation of the society. He never agreed to codification on principle but expressed himself in favour of giving a share to the widows and daughters without any codification. Surely it is not right to consider all persons to be wise who talk in the same vein as you do and denounced all others as mere fools who cannot share your opinions. I will request my brothers and sisters through this House and, Sir, through you not to consider the Bill in this manner. And, to my hon. Leader, the Prime Minister, Pandit Jawaharlal Nehru, who is not present in the House, I would like to say that I should certainly have joined with him—and I am in fact with him—in his efforts to evolve a uniform set of rules for the Hindu society and his desire to assemble the scattered provisions of Law and to form them into a system—a code—but I ask, have the public been allowed an opportunity of expressing their views. Take the case of the small-sized Parsi Community. They kept all their component parts with them, ascertained the opinion of each one of them separately and it was then only that the Bill was brought forward. Then only did they succeed for otherwise they could not have achieved their purpose. A bill to amend the Civil Marriage Act was brought forward in 1921 with the same object as now. Why are you going to frame a Hindu Code, why not frame an Indian Code? All the people live in the same country—India; they ought to have similar ways and customs. When we have decided on one common language there should also be one common code for all the people of India so that this might lead to unity and result in a united India. I want to tell you about that period. The Christians and the Muslims raised such an opposition that Dr. Gaur had to say: 'It aroused convulsive opposition from the Mohammedan and Parsi communities throughout India. I had no other go but to drop the Bill and bring a new Bill in 1923.'

And he had to take that course. The Hindu society is not treated with any regard. No consideration is shown to a community which comprises such vast numbers. No consideration is shown to the counsel of Malaviyaji, leave alone Pattabhi sahib, Sir Alladi and Lakshmi Kanta Maitra. What they say is of no importance. Let alone others, here is the case of Rajendra Babu, who is known as Ajatshatru. He is a living treasure-house of wisdom and intelligence and is the ornament of this country, who has put the ideas of Gandhiji into practice and who could explain them not only to this country but also to the rest of the world. He says, 'This is not the opportune time'. There are many things in it which are controversial. Please sift them out and do not touch upon them. But, what to do? Our leaders say, 'No, this has to be expedited.' Then, let them expedite it but they should at last see to it that the views and assent of all the people are obtained. There is one advantage in particular seized by Dr. Ambedkar. I will tell you what that advantage was. When this Bill was introduced in 1948 we all sat together and decided that nobody should make a speech on it for the present. Neither Dr. Ambedkar nor anyone else said anything in particular. At that time it was thought that if the Bill was

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just introduced this was likely to cause satisfaction to our sisters and to others who are reformists, who want unification and codification and to those who are rational. So it was agreed to let them have that satisfaction. Taking advantage of this, however, Dr. Ambedkar thought that it had been conceded by the people generally that the Bill was all right. No Sir, we did not study some of its clauses some of its provisions. But, since our leaders said, 'Let it move forward a bit', we said 'Very well, take it forward. Bring it into the Bazaar'. Thus, it has come into the Bazaar, it has been paraded in procession and here we are seeing it. I should like to say that if all this debate of ours had taken place before the Bill was sent to the Select Committee it would have done a lot of good to Dr. Ambedkar and our friends of the Select Committee. They would have come to know what shape should be given to the various things. Now, we are faced with a sort of conundrum. Our confusion lies in this that if we say that it should again be sent to the Select Committee, it is not known into what a labyrinth of rules and procedure we might be landing ourselves. If, on the other hand, we say that we should hold it up for the present there is another sword hanging over our heads. Now what are we to do? We are in a pretty fix and it is for our leaders and Providence to take us out of it.

I was saying that we were not called for to introduce this measure at this particular juncture because we have not yet obtained the views of the Hindu society. Whatever Hindu society has been consulted belongs to the towns. And how many people were consulted? There are 121 individuals and 102 institutions who have filed written statements or given evidence. Now, shall we say this is the opinion of the Hindu society? In case you want to know the opinion expressed by Mr. Mitter, and that too in regard to each part separately, I am prepared to speak to you about it. Opposition has been offered to it everywhere barring Madras. Those belonging to the Dayabhaga School opposed it in Bengal. There is opposition from the Bombay side. Because of this antagonism and other causes it has come to face opposition. If, in spite of this opposition, we were to say, 'No, what the minority say is alone the truth and you will have to accept it', it is rather hard. The Hindu society should be unified. This should certainly be done on the basis of a system. How can I say the women, our sisters, should be given no share? But, let our sisters themselves be asked to say if, after they have received their share, they would still have any love left for their parental home. How much love would be still left? Just ask one of the reformed women of to-day where her father lives, where her brother lives. They keep to their own cottage, homestead or mansion and do not so much as greet a relative. Such are the reformed people of to-day. Hence, if it comes to shares what will become of us? However, what I wanted to say was that in spite of all these objections we are faced with the minority issue. Even though the views of everyone have not been obtained we are being treated to that kind of pressure. We are urged to accept it under duress. They fail to see, however, what complications are bound to arise later on.

Hence, I want to say, kindly find out a middle course. Only a middle course would give satisfaction to us and to society and cause the unrest to subside. Just as Pataskarji observed to-day, we are already up against a number of difficulties. Why create another big one at this juncture? Why plant another thorny bush and thereby spoil the path rendering extra labour necessary later on for its clearance? Why should you act in that manner? Kindly attend to some other task and let this one be postponed for a year or two. I should like to suggest to my sisters—veritable goddesses as they are—to those of them who have welcomed this measure that in the interests of the country, they should take upon themselves to go to our Jawaharlalji and appeal to him that

this measure may be held up for one or two years. This would help in many ways. But, as it is, their line of thought is that if this Bill is not passed now or at any rate in 1950, it may never be passed, because those who come hereafter would not allow it to be passed. But let me tell you that even if you pass it to-day you should know what is going to happen later on. Such a type of people will come in to fill these seats who will say, 'As our very first duty let us set right this Hindu Code that has been enacted'. Hence, I beg you kindly to prevent this if you can. If, however, you cannot do that then my advice is: 'Not to the left, not to the right, come in the middle; find out the golden mean'. This alone can satisfy the community.

Secondly, I wish to refer to what Dr. Ambedkar said in reply to a point of order raised by Mr. Sarwate, to which, Mr. Deputy-Speaker, you also added your support, viz., that this Bill is going to be applicable to the Provinces only and that if it is sought to be made applicable to the States it will be sent to them, it will be circulated, before it is decided what is to be done about it. Dr. Ambedkar made the following observation:

"When the occasion comes for the extension of the Bill to the Indian States, no doubt this Legislature, when a proper motion is placed before it, or the Government of the day will take note of their wishes and intentions and the States which have come into the Indian Union will be consulted."

If this is the position then what is passed to-day will be sent to the States after six months and by the time the States enforce it you will have gone still further ahead. The States people who are already somewhat backward will be left even further behind. You should therefore, kindly, keep that point in view and see what can be done about it.

I may be permitted to say that the mode of obtaining public opinion was not perfect. I have already said that. It took us two-and-a-half to three years to frame our Constitution and even though we have proceeded with the utmost caution there are so many people who say it is no good. We consulted the Provincial Governments, supplied them copies of the Draft Constitution and it was discussed there in their legislative assemblies and cabinets before they sent us their views. As you know the Rau Committee never sent their draft report to any Provincial Government. This is how it has come up. Hence, I wish to point out that the opinion was not taken fully and properly. The basis of your claim is also not sound. I am in no doubt on that score. Renuka Bhanu remarked, 'Half of the country will be with it, but the report of the Rau Committee says, 'The society is very much divided.' In view of this whom should I rely upon? Should I rely upon those who gave their report in 1947 after investigation or upon Renuka Bhanu's statement of 1944?

Mr. Deputy-Speaker: Several other Members have yet to speak. Kindly conclude it.

Shri Gokulbhai Daulatram Bhatt: I shall be closing in five or seven minutes. I should say a few things more if you permit.

Mr. Deputy-Speaker: Just as you please. You have taken thirty minutes already.

Shri Gokulbhai Daulatram Bhatt: I shall speak just a little more and then close very soon. I must say that it is the Hindu Community alone which would quietly take whatever blows you might give it. Look at the Muslim Community. Did anyone have the courage to draw up a code for them? Why not unite the *Shia* and *Sunni* schools of thought? Could you just dare meddle with the law of the Christians? Or could you dare tackle the Parsis? This poor community alone must stand every thing. Is it because you think it is dead? Dr. Ambedkar says he belongs to the *Shudra* caste. I hold him very

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high. Someone gives him the title of *Muni* (saint), another raises him to the rank of *Rishi* (sage) whereas he himself says he is a *Shudra*. Then let him be Vishwamitra. Whatever you are you are, but, of course, you are a wise man. Why nurse that inferiority complex? He says, '*Smritis*' continued to be prepared. The Brahmans went on writing. What else had they to do, after all? What is the work being done by your department? That was exactly what the writers of *Smritis* did. It was a department which amended laws and rules from time to time. Just as you prepare and put up amendments to laws they did likewise. I, however, do not wish to go into this question. Nor do I wish to go into other extraneous matters. Our sisters say this thing has come to be included in the fundamental rights and that those who are opposing it have not been able to comprehend the fundamental rights. "You do not understand the fundamental rights," they say. Does it form the fundamental rights or even state law? Does the Hindu Code constitute state law or is it personal and private law? If you were to bring forward a bill in regard to an Indian Code I could say with authority nobody would oppose it, but to-day you are out to frame a Hindu Code and to make a change in the Hindu Law. But personal law is not State law and therefore it does not apply. Gaur had remarked, 'it will only be *Artar* who might come someday and bring forth this Code.' Shri Gaur is perhaps sitting in Nagpur now and he must have been gratified to learn that the *Artar* has manifested himself at last and that the Hindu Code Bill has arrived.

Shri Mahavir Tyagi: Disgraced persons.

Shri Gokulbhai Daulatram Bhatt: Saying a few words more I wish to conclude my speech in a short time. It is said that brothers and sisters should be equally treated. Shri Kripalani has left, why would he hear what the others say? So I wish to say why this double right should be given to the sisters. She will take her *stridhan* from her father's place, will take all the dowry given to her by her father, will take her personal share and apart from this all her share in the husband's property is still there. Then how the sisters have become so selfish? The women are themselves prosperity incarnate, why do they want more of this worldly wealth? Shrimati Kamala Chaudhri has given out that without doubt wealth and prosperity will automatically flow back to the wealthy and prosperous. Women are themselves wealth and prosperity incarnate, why do they want to add to their prosperity? With the slight illusion and fascination they still possess they have been able to capture and subdue the whole world, if the illusion and fascination would increase then nobody can foretell what would not come to happen. If the wealth (*maya*) will undoubtedly flow back to the wealthy then subsist Nature and Nature only in this world and exclude Man therefrom. If by this exclusion of Man the *maya* is able to subsist then do accordingly.

Our friends from Travancore and Cochin are far advanced but they should also keep in mind that a solitary swallow will not make summer. They should make the villagers also keep pace with them and if they also are to be taken along then kindly give this Bill more publicity and explain it to them the various implications and then the purpose will surely be achieved. There is not the least doubt about this fact. At places it is being said that by passing this Bill a reversed state of affairs is being created, and to some extent this allegation is right also. Let the water trickle down its natural course and if by spurning the minority view point here you would reverse the state of affairs then today you may be able to do so; but in future a time will come when such drastic changes would be made therein that would stun you speechless. The inevitable must come, to pass. I do not like to go in details.

I wish, to say one thing more that our *Smritikar* (law-giver) *Yagyavalkya* has gone a step ahead of *Manusmriti* even. I do not want to enter into the controversy as to which of the *Manus* has been the author of this *Manusmriti* because there have been a number of *Manus*. But Shri Vigyaneshwar, the famous annotator of *Yagyavalkya Smriti*, who has written the *Mitakshra* annotation and the annotators who have written *Dayabhag* and *Mayukh* annotations have propounded different and distinct opinions. I do not want to quote all the illustrations. But they have laid down that if a woman be not given her *stridhan* then she also should get a share in the property equal to that of the son. This has expressly been mentioned. I wish to say with all the emphasis at my command that in our *Smritis* a mention is made of *stridhan*. The people of England have not yet codified their law. I wish to inform you that according to the English Book of Prayers the prohibited degrees of relationship for marriage were determined in 1565 A.D. The same continued to be in force till 1915 A.D. and in 1915 A.D. only one alteration was made in the prohibited degrees of relationship *viz.*, till now a marriage could not be consummated with the wife's sister. So I wish to say that we have stepped far ahead as compared to this. There they took so many years to change one degree of prohibited relationship but here according to the Civil Marriage Act the people have been permitted to enter into matrimonial alliance with the second cousins also. Those who like may take recourse of Civil Marriage, but why you want to impose the same restriction on all others. The Civil marriage Act provides for marriages with second cousins. Those who wish to adopt that system may follow it. While framing this Bill we should keep in mind the Principle of Eugenics also. It is wrong to consider that our *Smritikars* (annotators) have mentioned anything at random. Our *Smritikars* were past-masters of the Science of Eugenics. They were not common people. They were highly learned and well informed persons. Whatever doctrines they laid down were perfect in all respects and were propounded after mature consideration. Their decrees were so perfect that it was not at all deemed essential to effect any changes in them say after 6, 8, 10 or 12 months. Our *Smritikars* were very wise and intelligent. Deep meditation of hundreds of years is essential to suggest any changes in what they have written. Undoubtedly you may make suitable amendments therein, because from time to time suitable amendments have been made in these *Smritis*. But we must consider this fully well whether by introducing these changes the society will be benefitted or put to loss.

Shri H. V. Kamath (C. P. and Berar: General): Are the hon. Members of this House not intelligent?

Mr. Deputy-Speaker: Please go on.

Shri Gokulbhai Daulatram Bhatt: I am not so intelligent and learned as Shri Kamath is. I do not allege that the hon. Members here do not possess intelligence. Everybody has got his own intelligence. Everybody can think. But I say that I will not accept lying down all that Dr. Ambedkar says in a manner that great men have great views. Similarly if any *Pandit* (scholar) were to come and say that whatever has been done for the untouchables is not at all justified then also I will not take his word for granted because I do not believe in the maxim that great men have great views. But I was submitting that whatever our *Smritikars* have done they have done after fully taking into consideration the future of the society. It is quite true that these *Smritis* were codified according to the then needs of the society. To-day our society consists of numerous castes and sub-castes, the people belong to different sects, they believe in various doctrines, there are Sikhs, Jains, Buddhists and followers of other schools of thought and so on. They are divided up into numerous religious sects. It is not an easy task to inter-blend them in a single system.

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Sir, I will now take only a little more time. I had just stated that the honourable Dr. Ambedkar said, "Custom will eat into the code and therefore custom should not prevail". On the other hand he says that the law governing the succession rights of Rulers and Jagirdars, which should not be there, should continue; and when there is a question of usages and customary rights, he says that this should not be there.

There is the point of succession. Another point is that of adoption where he says that customs and usages should not be allowed to continue. Both these things are untenable. You had better put an end to it, make it uniform or abolish it outright. Sir, I would again bring it to your notice that petty conferences are being held at other places on account of which I am feeling some difficulty in speaking.

An Honourable Member: He is repeating the same arguments.

The Honourable Dr. B. R. Ambedkar (Minister of Law): It is now one hour since the gentleman has been speaking.

Mr. Deputy-Speaker: Order, order. The best way of asking him not to speak longer is not to make noise but to leave him alone so that I may ask him to complete his speech early. The hon. Member knows that many other Members are anxious to speak. He has already taken more than 45 minutes.

Shri Gokulbhai Daulatram Bhatt: Sir, I am indebted to you. So I was telling you that on the one hand you say that the custom is no problem, these customs, and usages should continue; on the other, if this is acted upon it would tantamount to kill the Hindu Code. I do not want both these things. You ask us to grow more food. If we have to grow foodgrains in all the land in our possession, be it a garden or beautiful lawns, we must cultivate all these lands. On the one hand; you want that your lawns should also remain intact, and on the other, you desire that more foodgrains should be grown. Such a course does not appeal to me.

You know what is custom? We should understand family customs, village customs and national customs—'*Shastra d ruri balyi*' (Customs overrides the sacred laws). What is the meaning of *Shastra*? By referring to *shastras* again and again you people would be thinking that I am raving like a madman. The *Shastra* is a science a treatise and a law. That is a *Smriti*. After this you will not like to appreciate any such thing. So he will not like to involve himself in any such controversy which the divorce problem has created. A man and a woman sit in a *Panchayat* and say that they want to get rid of one another. They say that they have enjoyed the pleasures of the world and want to go to some other place. They will not involve themselves in such a botheration of having a recourse to the District Court or High Court for this purpose. If they behave in such a manner the reverse will be the case.

When I go to the village, I will tell the people that the Hindu Code Bill has been framed in such a manner and it contains a provision of such like matters. Those people will then say that they do not want this in such a form. The existing village *Panchayats* are quite good and these should be allowed to carry on as they are doing at present, and they do not want to involve themselves in such complications of law which will enable the lawyers to thrive and the poor to become poorer. With your blessings, all these things abundantly exist in the Hindu law.

Sir, I was just saying what is likely to be the net result of all such things I cannot touch here every aspect, because I have not got sufficient time at

my disposal that I should refer to all such things, as many of my brethren are desirous of speaking on it.

So Sir, I was just going to say that this is a question of vital importance. I would advise my honourable friends sitting here who have expressed their opinion in favour of its being passed to consider it once again more carefully. This is not the time for hasty action. You are liable to be called to account by the people for your doing of it. With all due respects, I would also like to request our esteemed leader the honourable Pandit Jawaharlal Nehru that this question which has been brought up before us is so vital and of such a fundamental importance that we should necessarily consider over it most carefully. It is all the more necessary that the public opinion should be elicited in this matter. My honourable sister Shrimati Renuka Ray had referred to a referendum. In this connection I would like to say that as the elections are likely to be held in the near future, you can at that time elicit the opinion of the masses whether or not they want the Hindu Code. You can place it before the public that we are framing a Hindu Code Bill of this nature and whether or not they like it. If you are able to enlist the opinion of the people on this issue, then you are at full liberty to pass it in this House. This should be agreed upon as the basis of referendum. I am not a man to be swayed over by the newspaper reports. The newspapers are given to the publication of exaggerated versions of such matters simply to promote their circulation. I have got no personal grudge against the newspaper men. I cherish solicitude for them and have every sympathy with them. But so far as the question of holding a referendum is concerned, I would like to tell my honourable sister Shrimati Renuka Ray, who is not present here at the moment and other sisters, that as elections are likely to be held after a few months, this question can then be placed by them before the public. You can tell the people that we have framed such a Hindu Code Bill and want to pass it. If the people vote in your favour on this issue, then we can surely pass it here.

Thus, I would like to request the Government to consider over this matter and not to pass it at this moment. To conclude, I would say this much "Not to the left, not to the right, come in the middle to find out the golden mean."

Shri R. K. Sidhva (C. P. and Berar: General): Sir, my friend has mentioned the Parsi Matrimonial Act. Will you kindly give me five minutes to explain?

Mr. Deputy-Speaker: I am not going to allow it because he did not criticise it in any manner. He said the Parsi Marriage Bill was sent round to all persons all over the world. He used that as an argument in the case of this Bill which involves three hundred millions people. Therefore, on that ground the hon. Member cannot claim any right to speak.

Shri R. K. Sidhva: No, Sir, He has made incorrect statements.

Mr. Deputy-Speaker: Then the hon. Member must have brought it to my notice. We cannot start an argument over every matter.

Shri R. K. Sidhva: Have I no right to speak on this Bill?

Mr. Deputy-Speaker: Every Member has a right to speak, I have absolutely no doubt about it. Only time does not seem to permit.

Dr. Bakshi Tek Chand (East Punjab: General): Sir, the debate on the Bill has gone on for several days. Both sides of the question have been put before you. I do not want to repeat the arguments which have been given on the one side or the other. I have only two submissions to make, one to the supporters of the Bill and one to the opponents of the Bill and after that I have to place one suggestion for consideration of the House for such changes as I think

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should be made in the Bill to make it acceptable to all or at any rate to a large part of the House and also of the country. I will ask the indulgence of the House therefore for a few minutes to permit me to place my views before it.

The first suggestion that I have to make to the opponents of the Bill is this. They say that this House is not competent to touch the provisions of Hindu law, because it is a matter of a time honoured religion which has come to us through centuries and that it is only a *Pandit Parishad* which will be competent to effect any change. I submit with great humility that that is a position which cannot be accepted for a single minute. Hindu law, as has been pointed out by Sir Alladi Krishnaswami Ayyar and others, has never been static. It has changed from time to time. Each time when the structure of society changed, a *smritikar* appeared—a sage, a rishi, a muni—and he made such modifications as were suited to the times. This process went on for centuries until the country came under British rule. During this period, the only changes that could be made in the law were either by judges who were to interpret the law or by the legislature. No new sage could appear with the authority of a Manu or a Yagnavalkya or a Viswamitra. Either the judges who were duty bound to interpret the law as they found it in the *smritis* or *nibandhas* could interpret it or the legislature had to intervene. It is idle therefore to contend in the year 1949 that the legislature is not competent because it consists of all types of people who are not learned in the *smritis*. That is an argument which, I submit, should be rejected forthwith. If you see the course of events that the legislatures of this country have followed for more than a century, you will find that whenever it was found that the Hindu law or any branch of it was found to be defective, legislation was introduced. It began with the Removal of *Sati* Act in 1829, under the guidance of late Ram Mohan Roy. The custom of *sati* which was considered to be a part of Hindu religion, but which was not really a part of it and which was an abuse, if I may say so, of the principles of religion, had to be done away with and for that purpose legislation was introduced as far back as 1829.

Mr. Deputy-Speaker: There is too much of whispering going on. The reporters are unable to take notes. I am also not able to hear.

Sjt. Rohini Kumar Chaudhuri: The Speaker's voice is indistinct. He has got two mikes close to each other. We do not hear him properly either.

Mr. Deputy-Speaker: He is speaking before the phone. Each seat has been converted into a small phone. What am I to do?

The Honourable Member will kindly resume after Lunch. The House is adjourned till 2.30 P.M.

Shri A. Thanu Pillai (United State of Travancore and Cochin): May I make a suggestion? (Interruption). My point is this.

Some Honourable Members: The House has already been adjourned.

Mr. Deputy-Speaker: You are late. The House has already been adjourned.

Shri A. Thanu Pillai: I am sorry. I did not know.

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

The Assembly re-assembled after lunch at Half Past Two of the Clock, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

HINDU CODE—Contd.

Dr. Bakhshi Tek Chand: Sir, when the House rose, I was referring to the Acts passed in 1829 under the inspiration of Shri Ram Mohan Roy for the abolition of *sati*. Now as we all know, it was argued at that time that *sati* was a part of Hindu religion. It was said that *sati* was one of the essential features of our *dharma* and any interference with it would be an attack on Hindu religion. But the sense of the community prevailed, the law was passed and *sati* ceased to exist. This custom, as I was saying, was not a part of Hindu law. It was an innovation which has been introduced during the, what are called dark ages, or the medieval ages. Luckily that was removed by legislative enactment.

After that we had the 1850 Act for the removal of class disabilities so far as interitance was concerned. If a person or the heir changed his religion the right of succession was not affected. That was the second great change that was made in Hindu law. Then came another very great reform in 1856 when the Widow Re-marriage Act was passed. For centuries it was believed that the Hindu religion did not permit the re-marriage of widows.

Shri Mahavir Tyagi: May I know, Sir, if the Treasury Benches are represented.

The Honourable Shri K. C. Neogy (Minister of Commerce): Government is one and indivisible and so long as there is one Minister present I think he is competent to represent the whole Government.

Mr. Deputy-Speaker: I think it is always a healthy ambition for Members on the other side to come and sit over this side.

Dr. Bakhshi Tek Chand: As I was saying, widow remarriage was considered to be an essential feature of Hindu religion and any suggestion to repeal that law or to enact a permissible legislation which would enable a widow to remarry was opposed tooth and nail. But under the leadership of Shri Ishwar Chandra Vidya Sagar and other leaders of that day public opinion asserted itself and this great disability under which Hindu women suffered was removed by another piece of legislation. Well, the Hindu religion did not come to an end by the enactment of that legislation.

After that there have been numerous other Acts by which Hindu law has been modified by the Parliament or the Legislative Assembly of the day. Most of you will remember the great agitation which took place in 1890 and 1891 when the Age of Consent Bill was introduced. At that time the cry was raised that it would be a gross interference with the Hindu religion if a legislature consisting of Hindus, Muslims, Christians and dominated by bureaucrats were to legislate in regard to a custom which permitted intercourse with a child wife below the age of twelve. If you have any recollection of what appeared in the papers, even advanced papers like the *Amrit Bazar Patrika*, you will see in what kind of convulsion the Hindu society was at that time. But again the legislators persisted and that Bill was passed, a Bill which ultimately has culminated in the last session by almost unanimous vote of the House in the further amending Bill which our friend Pandit Thakur Das Bhargava introduced and which if I remember aright was unanimously passed by all sides of the House. At that time none of our friends thought that this Assembly was not competent to legislate with regard to a matter which was considered to be

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an essential part of the Hindu religion. Coming to more recent times, you will find that in 1916 the Indian Legislature passed what is called the Dispensation of Property Act, an Act which has had the effect of repealing the law which had been laid down by the Privy Council in what is known as Tagore *versus* Tagore case. In that case, following certain texts of the *Smritis* the Privy Council had ruled that behests or gifts in favour of a class of persons who are unborn on the date of the gift, were void according to Hindu Law. That had continued to be the law for about sixty or seventy years. It had been suggested that that was a wrong interpretation of the texts. The matter was examined and it was found that certain texts according to their literal meaning could only lead to the conclusion at which the Privy Council had arrived. This was found to be a great handicap and a great injustice. Therefore the legislature again intervened and by a unanimous vote of the House, it passed that Bill in 1916.

After that came what is called the Removal of Disabilities Bill. Under certain texts of Hindu Law as enunciated by some of the *Smritis* if a person was suffering from a physical disability, if he was blind, if he was deaf and dumb, he was not entitled to inheritance. Many people thought that whatever the meaning of the texts might be, this was a great hardship. If out of five sons, one was deaf or was blind or suffered from some other disability, it was more necessary in his case that he should get a share in the father's patrimony rather than the persons who are physically fit and capable of earning. Well, that text might have been of some validity or of some utility at a time when in ancient times the structure of society was such that in order to increase the family wealth it was necessary that all should work. It had become obsolete and the Hindu community revolted against it and the agitation was such that the Indian Legislature passed this Act in 1928 after which persons suffering from physical defects were allowed to inherit in the same way as persons who were physically sound. This was another inroad into Hindu Law.

Then came another and very important Act, Act II of 1929 by which certain classes of people who till that time had been ruled by the courts as not entitled to succeed to property were allowed to succeed. According to the text of the *Mitakshara* school, it had been ruled by the courts in India and ultimately by the Privy Council that there were only five classes of females who were entitled to succeed, because these five were mentioned in *Mitakshara*. The Bombay school was of opinion that this list was not exhaustive but it was only illustrative and the great commentator Nil Kantha and his followers held this practice was due to a wrong interpretation of the *Mitakshara* in Northern India. Well, a Bill was introduced in this Assembly and after a great deal of deliberation that Bill was passed and the daughter, the sister and the sister's son and so on were all included in the list of heirs. That again was a great change in the structure of Hindu Law, particularly in Northern India.

You are all aware of the Sarada Act. I will not repeat that. At that time also it was argued and argued seriously in this House also that fixing a minimum limit for marriage was an interference with Hindu religion. Well, the opposition did not succeed and the legislature persisted and the Bill was ultimately passed.

After that, we have had what is known as the Deshmukh Bill. That Bill of 1937 had a great effect: it effected a very great change in Hindu Law of succession. In areas governed by *Mitakshara* school, when there was a joint Hindu family after the death of one co-sharer, if he left no son, the widow was not entitled to any share. She was dependent upon the brothers-in-law or the husband's father and the other coparcener, dependent entirely upon their

mercy for their maintenance. She was to receive only food and clothing and nothing else; mere maintenance only. Under that law it was enacted that childless widows would be entitled to the same share of the property as her husband would be entitled to, and if she so liked, she could even ask for the property to be partitioned. It was held at the time that Hindu women in a joint family being entitled to sue for partition was considered to be repugnant to the fundamental principles of the Hindu Law, but the Legislature again made this change, a change which was warranted by the changing times, by the rising consciousness not only among women but among the men in this country, among Hindus who wanted that this should be done to their sisters and mothers. Now, at that time also there was a great deal of stir in the country but ultimately that stir also died down. Twelve years have passed and we cannot say that Hindu society in any way has crumbled to pieces or that Hindu religion has been attacked in a very vital matter so that it is now going to pieces.

I come now to more recent times. In 1946, shortly before the present Assembly came into existence, a Bill permitted marriages among sagotras was passed by this Legislature. That Bill did not interfere with the prohibited degrees. Even though persons were living in different parts of the country and did not belong to the same caste, yet because they belonged to the same Gotra, according to some technical meaning of the texts, the marriages could be invalidated. Such marriages, even though performed in several parts of the country, their validity was in doubt. That was again an enabling measure which was passed in 1946 and to which no serious objection has been taken.

Now, I would ask hon. Members to bear in mind what we did in the last April session of this Assembly. My esteemed friend, Pandit Thakur Das Bhargava brought a very simple Bill consisting of one section only, but a Bill which was of a most far-reaching and important character. By that Bill it was enacted that notwithstanding any text of Hindu law or any custom or usage having the force of law to the contrary, a marriage between various castes of Hindus would be deemed to have been validly made. That was a very great step, a step which permitted inter-caste marriages and which removed such restrictions as one must marry either in his own sub-caste or, at any rate in his caste. That was the measure which was passed by this House unanimously, and so far as I remember at the consideration stage the only voice raised against it was that of Dr. Ambedkar. All other Members orthodox and un-orthodox, person governed by *Dagabhaga*, *Mitakshara*, by the *Mayukha*, persons governed by tribal customs and everybody supported the Bill. Dr. Ambedkar, of course accepted it on a very narrow ground. He was entirely in favour of the principle of the Bill, but he thought that as this Hindu Code which was a very embracing measure was before the Assembly and therefore we should have a comprehensive measure; that was a very technical type of objection. Otherwise we all unanimously supported that Bill and it came sometime late at the end of April. Now I will ask my orthodox friends who say that Hindu *Dharma* is in danger as to what has become of that. We were saying when the Constitution was under consideration that we want to have a class-less and a caste-less society. That is contrary to certain texts of Hindu law which have been in force in various parts of the country for centuries, but still the Bill was enacted and it is a part of the law of the land. At that time, if I may be permitted to say so, nobody took an objection that this House was not competent to deal with it because it had been elected only for the purpose of framing the Constitution or for the purpose of carrying on the day to day administration. Abolition of caste system in the matter of marriages was surely not part of the day to day administration of the country. It was a very vital and a very material and a very substantial change in Hindu law of marriage, the law which prevails in some form or another in all the Schools

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from Kashmir to Kanya Kumari and from Bengal to Gujrat, but we all did it with open eyes when the Bill was passed and Mr. Munshi who was here at that time said that the Bill was a far-reaching one, though the Bill is a very short one; it is a very big change and a very important change. The whole House cheered him at that. I will ask my orthodox friends, the opponents of the Bill where was their regard and their enthusiasm for Hindu Law or Hindu *Dharma* at that time? I submit, therefore with great deference to my orthodox friends that this cry which is being raised, that this Bill which is now before the House is an attack upon the Hindu religion, that the foundations of the Hindu religion will be undermined, that the whole fabric of Hindu society and Hindu culture will crumble to pieces or that this House is not competent to enact a measure of this kind, simply because it does not have many learned *pandits* or that the Members who are here were not elected for a specific purpose, I submit with due deference that there is no force in this objection and I would most respectfully ask my orthodox friends to consider the history of the legislation which I had placed before them, the various measures which we ourselves have passed in recent times and to consider that they might attack the Bill upon other grounds, but to say that this House is not competent either being merely a legislative assembly or that we have got no mandate of the country to look into this measure to enact or consider it and pass it, I submit with very great deference that that argument is not sound. I will ask them to examine the Bill upon its merits to accept it or to throw it out. It is one thing to say that the Bill has not been sufficiently considered; it is one thing to say that there are provisions in the Bill which require further discussion and examination; it is one thing to say that the Bill requires to be re-cast in certain matters. Even today as I suggested and as Sir B. N. Rau in his original report of the Committee said, perhaps it will be advisable to take this reform of Hindu law in parts. I can quite understand that, but when every morning—I hope I will be pardoned for saying so—every mail has been bringing in letters during these months, letters and reprints from speeches delivered by persons, resolutions passed by the *Dharma Sangh* and this society and that society, all giving the opinion of this great man and that great man and saying that this Assembly is not competent to deal with them: I with the greatest deference and in all humility, submit that that is neither correct nor logical nor reasonable, and therefore, I would submit to my friends, the opponents of the Bill not to press those arguments, but to look at the Bill very reasonably, rationally and with a proper point of view.

That was my submission to my orthodox friends and now I may be permitted to say a word to our friends, the supporters of the Bill.

Shri H. V. Kamath: Are they heterodox or orthodox?

Dr. Bakhshi Tek Chand: Well, let everybody decide it for himself. Now the position is that this Bill was introduced. It had as we know, a very brief discussion at the first stage. When we met in the Select Committee we were given only six days to consider this important Bill and when certain objections were raised by Members of the Committee to some parts of the Bill, we were told that the principle of this proposal goes against the fundamental principles of the Bill which have been accepted by the House when it passed the first reading and therefore, we the Members of the Select Committee who wished to move amendments to those vital matters are out of court and we were out of order. We submitted to the ruling and we had only six days to discuss this Bill in the heat of July and we did the best that we could under the circumstances within the short time at our disposal and within the narrow limits which were laid down by the hon. Law Minister at that time. That was not only the Law Minister, but there were certain enthusiastic Members of the Select

Committee, who thought: "Well now is the time we have got this Bill; let us push it through in this very session and before the month of October or November arrives, it will be a part of the Statute Book." Several objections and several arguments were given: 'Let us wait for a few months.' Ultimately the Select Committee decided to proceed with it on a majority of two.

Things have gone in such a way that within one month this Bill could not be put on the Statute Book. Things have dragged on due to circumstances

much beyond the control of us, beyond the control of the majority 3 P.M. of the Select Committee. One point which I raised in the Select Committee and on which I also dwelt at some length in my note of dissent and which I ask the permission of the House to repeat was that this Bill is a very half-hearted, and a very, if I may say so, a very truncated measure. I fully endorse the view and I have no hesitation in repeating it, that the time has come when we must give full rights to our sisters and our daughters; that is to say, the time has come when we cannot allow the old texts to continue, or their interpretations which have been given by the British courts that a woman has not got a full estate, that a woman is not entitled to succeed to this type of property or to that type of property and so on and so forth, that must go. In the first place I maintain, and I have always maintained it that all that is against our original Hindu law. I maintain, and I hope to show, if the hon. Deputy-Speaker will permit me a few more minutes, that this theory that a woman's estate is limited is a creature, a creation of the British Indian courts. It is not countenanced, not supported by the *Mitakshara* law nor by the *Mayukha* nor by the *Smritis*. All that must be done away with. But in order to do that, what shall we do? I suggested that some changes should be made in the Bill, that we must look at it from another angle which will give woman a higher status than we have got in the Bill; they said "No, we have got the Bill having the *imprimatur* of Shri B. N. Rau and the authority of Dr. Ambedkar, and no change of a substantial nature can be made in it." That was the attitude of the supporters of the Bill. If I may be pardoned for saying that, in the Select Committee and later on also, they have not been less fanatical than the opponents of the Bill. They say, "Well, there is the Bill, take it or leave it, and reject it if you can." That is being repeated now after the declaration which the Prime Minister was pleased to make a few days ago, and which I know, must naturally, tie down most Members of the House in their vote.

Some Honourable Members: No, no.

Dr. Bakhshi Tek Chand: Well, it will have an unconscious effect, even if permission is given to everybody to vote as he likes. Well, I ask the friends who are supporters of the Bill, I ask my sisters, 'Does this Bill do you full justice? Is this all that you want? Does it give you the rights you want?' I say, 'no'; I say most emphatically, 'no, it does not.' It is a most truncated and half-hearted measure, and if I may say so, it will do the maximum of mischief to Hindu society and the minimum of good to the members of the female sex.

An Honourable Member: Are they agreeable to your solution?

Dr. Bakhshi Tek Chand: I do not know. Now I will deal with a few of the provisions of the Bill. One of the provisions of the Bill is that the chapters relating to succession, etc. will not apply to inheritance of agricultural land. Why? Because at that time when the Bill was introduced, the position was that under Entry 7 of the Seventh Schedule of the Government of India Act of 1935, this Legislature, the Indian Legislature could not pass any law relating to agricultural land, that was a provincial subject. Well, that was the position at that time. In 1938, Dr. Deshmukh's Bill was extended to include agricultural land also. The matter went then before the Federal Court and the

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Federal Court agreed that this was *ultra vires* of the Indian Legislature. That was the decision of the Court and that was the provision of the Government of India Act, 1935. And therefore naturally, Sir B. N. Rau and the Committee, as well as Dr. Ambedkar and his Law Department omitted it, and they said this is a matter which will have to be left to each Provincial Legislature to deal with. But luckily, by that time, the Drafting Committee of the Constituent Assembly had published its Draft Constitution. In that Draft Constitution, it has been stated that Entry 7 in the Seventh Schedule be amended so as to include or rather to make the subject a concurrent subject, namely, the subject of succession to immovable property or movable property, including agricultural land. That was the provision. I suggested at that time, in my minute of dissent, both in the Select Committee and in my minute of dissent, that we might wait for a few months, so that whatever measure we adopt to give redress to females, giving them a share in their father's or husband's property, that that might apply to all kinds of properties. What you want is uniformity of law, and I venture to point out that instead of uniformity, you will have diversity, and instead of unity, you will have confusion. If this provision had been passed, the position would have been when a man's immovable property is situated in a town, when he has urban property to that movable property one law, namely the law of Dr. Ambedkar's court; but with regard to agricultural land situated, some three miles off, the old law will continue. The sons will have all the rights from the moment of their birth and the rule of survivorship will remain, and nobody will know what is the position with regard to the property. See how many loopholes you are leaving? If you do not want to give the property to your daughter, you can sell her share in Poona and go and buy agricultural land five miles outside and then you can deprive your daughter of her share, and thus circumvent the provisions of the Bill. But now luckily, what has happened? To-day when we are at the end of this first stage of the second reading of this Bill, the situation is this. The suggestion of Dr. Ambedkar and the Drafting Committee has been unanimously accepted by the Constituent Assembly and it will, God willing, come into force on the 26th January which will be long before the third reading of this Bill. I asked the other day whether he is going to make a change now, so that this particular clause in the Bill which excludes agricultural land be removed so that we might give one-fourth, or half or full share or no share, and he said, "No".

The Honourable Dr. B. R. Ambedkar: I do not think the hon. Member is entitled to disclose a conversation. All I said was that that was my present view; later on we may reconsider the position, now that we have power, one of the impediments in our way had been removed.

Dr. Bakhshi Tek Chand: I am very glad that my learned friend has corrected me. I am much thankful to him for the correction, that his present intention is not to repeal that clause, but to retain the distinction, but later on...

The Honourable Dr. B. R. Ambedkar: I have not said anything like that at all. I do not think my friend is entitled to use a conversation.

Dr. Bakhshi Tek Chand: No conversation, but what you have said now on the floor of the House.

The Honourable Dr. B. R. Ambedkar: These are matters which I alone cannot decide. I have to take the consent of my colleagues.

Mr. Deputy-Speaker: The hon. Member may go on with the Bill as it is, saying that the Bill as it is does not provide for agricultural land. He need not refer to private conversations.

Dr. Bakhshi Tek Chand: Take the Bill as it is. Whether the change will be made now or later with the consent of the Cabinet or other parties is a different matter. But what is the position now. Agricultural land is being excluded. Agricultural land forms more than 80 per cent. of the property of Hindus in any part of the country. Therefore our sisters, daughters and other female relations are excluded under this Bill from succession to a very large portion of property. That is another reason for which it is necessary to reconsider the Bill and not to proceed with it in its present form. Whatever law you may have you should apply it to all property—agricultural, urban, movable or immovable.

Pandit Balkrishna Sharma (U.P.: General): If my hon. friend will give way for a minute I would like to know whether if this law is applied to agricultural property also, it will not lead to veritable fragmentation of land. (Interruption.)

Mr. Deputy-Speaker: Let there be no interruptions. The closure may come in at any time and I am giving a warning to the House in advance. The less the interruptions the greater is the chance for a larger number of speakers to take part.

Dr. Bakhshi Tek Chand: With regard to fragmentation I am not afraid of it. It is bound to come about if you have a larger number of heirs. If a man has five sons there is bound to be fragmentation and if he has two daughters also there will be more fragmentation. I am not afraid of fragmentation whether with regard to immovable or urban property also. If you have one or two houses, two sons and five daughters and they decide to divide the property there is bound to be fragmentation. Therefore with great deference to both parties this argument is wholly extraneous and should be left out of consideration.

Under this Bill more than 80 per cent. of the property is being excluded. That is one serious drawback from the point of view of reform.

One of the objections raised is this. A man may have a house and a small bit of land. Some of the villagers have a *kutchra* shop also. There will be so many divisions and the son-in-law will be introduced into the family. Some supporters of the Bill say that it is a reasonable objection and therefore we must introduce a clause at the third reading by which the dwelling house of the family will be excluded from succession. That is to say, the daughter, though she will be entitled to succession, will not get a share in the dwelling house. If that is so that will reduce the urban property still more. Out of the 30 crores of Hindus except a few rich people how many possess more than one dwelling house in which the whole family lives? Normally in the villages it is one house and a piece of land. If a trader he has a small *kutchra* shop also. If you exclude the dwelling house from the inheritance of the daughter you take out another slice from the property.

Another objection is that the sons-in-law will be introduced, and what might happen in most cases is that they will create trouble and since they could not manage the property in another village they will arrange to sell it to some local person. That will lead to the disruption of the family. To meet that suggestions are being made that the daughter will no doubt get a share but only its money value. You must then give to the brothers a right of pre-emption within one or two years of the marriage: the brothers will be entitled to pay to the sister or her husband the money value of the share and keep the property. That again, I submit, will lead to great trouble. It will be difficult to ascertain the market value of the property and this will lead to endless litigation and confer little benefit on the daughter. Agricultural land is excluded, dwelling houses are excluded and various other things will come in. It may be said that the whole share is too much, give her a half or a quarter share, I ask why not give her a full share?

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If you analyse the Bill calmly and quietly and not take as *smriti* which has come down from the Heavens, it will be found that it does not give the minimum of benefit to the female heirs.

This Bill will destroy the Hindu joint family. Whether, it is good or bad, people still cling to it. Yesterday our revered brother Mr. Alladi Krishna-swami Ayyar pointed out that in the villages in Madras it is still in force. My friend Mr. Santhanam may take another view. But it is there. Yet it is there and has a hold on some people, whatever might their proportion. All other principles of Hindu law such as survivorship, succession, the son having a share you are abolishing. What is the necessity? The necessity is to enable the daughter to get a share. I therefore submit that parts 5, 6 and 7 of the Bill introduce drastic changes in the Hindu family system and give the minimum benefit in its present form to the females.

I would therefore ask the supporters of the Bill whether it is necessary to push the Bill to a final vote at this stage either tomorrow or in the next session. Is it not desirable to give the matter more consideration and to see whether there is any other way of securing full benefit to the female members of a joint Hindu family, whether they are governed by *Mitakshara* or *Dayabhaga* and at the same time causing the least disturbance to the systems that prevail in various parts of the country.

I have made my submissions both to the orthodox and reformer friends. I have to make only one suggestion. I have not worked out the scheme in my mind; it will take a lot of time. But I shall place before the House the broad outlines of it. And I will ask Dr. Ambedkar, I will ask the other legal Members, I will ask the reforming Members, I will ask the orthodox Members to see whether that is not an alternative worth considering. In fact, up to this morning I was hesitating to speak on the subject and my view was to place it before the Committee which it has been promised will be meeting shortly and I had intended if I am a member of that Committee to place it there. But when I was called upon to speak today I thought the best course was to place it before the House. My suggestion is this.

What is our objective? Our objective is to give to the female members of our family full right in the property. What we should do therefore is this. Do not disturb the joint family. Do not overrule the law of survivorship. Let them continue as they are for as long as they can. But a woman, as soon as she is married, should in the *Mitakshara* family become a full co-parcener in that property. At present she is a member of a joint family but not a member of the co-parcenary. I will ask hon. Members to permit me for three minutes just to place my proposal before them and then to consider it. Any interruption on that point will not help. It is only a proposal for your consideration, for the consideration of the Committee and for the consideration of the Law Minister and the Prime Minister and other Ministers who may be interested in this matter. At present every woman after her marriage passes into the *gotra* of the husband, and she becomes a member of the joint family but with very limited rights. Up till 1937 her rights as given by the British Indian courts were those of maintenance only. She had no legal right in the property; she could only stay and enjoy it.

That was the position. In 1937 came the Deshmukh Act that on the husband's death she will be entitled to a share of the property—the same share as the husband—and also entitled to have her share separated if she could not pull on with the brothers-in-law or other members of the family. What I am suggesting is this. Add to that only one thing namely that she will become a full co-parcener. Just as in the *Mitakshara* family the moment a son is born

he acquires the right in the father's ancestral property and from the moment of his birth becomes a co-sharer or co-parcener, similarly let a woman from the moment of her marriage become a co-parcener, with full rights. There may be her own sons and others. They will all continue to live together without any necessity to separate. But if she thinks that it is not possible to live together with them she can separate her share and take it away—separate it in the same manner as she can do under the 1937 Act after the death of her husband. That is one change. If you do that you will not disturb the father's property and you will not disturb the joint family. Let the joint family continue as long as it can. Somebody said it was crumbling. Somebody said it was crumbling only for the purpose of Income-tax. Others asked as to how many people pay Income-tax and said that 99.5 per cent. of the Hindu population does not pay Income-tax, still they have the joint family system. These arguments mean nothing. If these are the circumstances under which the joint family is crumbling, let it crumble. But let it continue for as long as it can.

What I am suggesting is not something new or something which is against the spirit of Hindu Law. If I may say so, it is in accordance with the spirit of the original law—the law of the *Veda*, the law as given in the early *Shastra* by *Jaimini*, and others. I do not want to prolong my speech. But I would like to state what the position was in *Vedic* times and in times which shortly followed. You please read certain portions in Dwarkanath Mitter's book published in 1913 on "the position of women in Hindu Law". You also please read in Volume XI of the Allahabad Law Journal a very learned article by the late Dr. Satish Chandra Banerjee of Allahabad, one of the most promising and most eminent lawyers that this country had produced but whose career was unfortunately cut short by his death at a very early age. It is a very elaborate article. Also the book of Dr. K. Biswas of Patna. All these contain quotations from the *Vedas* and other persons who came in before Manu as to what the position of women at that time was. The position of the woman at that time was that she was a full owner of the property of the husband. Maharishi *Jaimini* says, commenting on the *Vedic* texts, that "the wife is entitled to the wealth from the moment of her marriage and whatever is acquired by the husband also belongs to her." That is to say she becomes a full co-parcener. Then, dealing with another text, he says "Not only is the woman possessed of the same religious and civil rights as a man, but all wealth which he (that is the husband) acquires is at her disposal. She is entitled to control even the disposition of acquired property by the husband"—his own acquired property. That is the conception of a co-parcener which we had. Just as a son from the moment of his birth gets a share and can control the father's alienations, unless they are for family necessities or for just purposes, similarly should the woman have the right from the time of her marriage. My submission is let us go back to these old *Vedic* texts and all our Hindu law and its glory before the period of degradation began and the rights of women came to be curtailed, and let us make her a co-parcener. That is one branch of my suggestion.

The other branch of my suggestion is the one which Sir Alladi Krishna-swami Ayyar made yesterday that a woman should have full right to alienate her property and this fiction of a Hindu widow's status must be done away with. With regard to that I would ask the indulgence of the House for two minutes. All my friends who are opposing the Bill say "we want to go to the *Shastras*". We don't want to go beyond the *Shastras*, particularly the *Mitakshara* which was followed by the country. With the exception of Bengal the whole country has followed it. What was the law of *Mitakshara* on this point. I would ask you to look to Vijnaneshwar, Chapter II, Section 11 verses 2 and 4 of his commentary on Yagnavalk as to what is a woman's

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stridhan. After quoting certain things, that is whatever is given by way of presents to the woman at the time of marriage—which is not important—he says: “And in addition to that, the *stridhan* consists of all property obtained by inheritance by partition, by seizure (that is by adverse possession)” and so on. That is to say, the property inherited by the woman from her husband or from her father or anybody else ought to be her full absolute property and nobody can control it. This was the law laid down by Vijñāneshwar in the 11th Century. That had continued to be the law until the British came. Another commentator of the Banaras school, N. S. Viramātadhira repeats it. Nilakantha, the author of *Mayuka* which is the leading authority in the Bombay Province, particularly in Gujarat and the Island of Bombay, again repeats it. Except in Bengal, in every other Province that was the law until the British came. When the British came they said, “Well, let us examine the original texts of *Mitākshara*”. They said it was a commentary upon Yajñavalkya. Yajñavalkya used certain specific notes and used the word *adi* and *adi* is interpreted by Vijñāneshwar in this manner. That was the position. A great deal of struggle went on. Of course some Courts struggled, particularly Madras, for a number of years, but ultimately the Privy Council said, “Well, we must do it”, though it was quite contrary to the rule which the Privy Council itself had laid down that if there was a difference between the *Smṛitika* and the commentary we must follow the commentator. That was the rule they laid down, but somehow or other they departed from it here.

So, I say go back to the Vedic position with regard to the position of a daughter's and a husband's family, and go back to the position of *Mitākshara*. Tear off all this mass of judicial literature which has arisen in this country during all this period and go back to what was the law up to the eighteenth century. If you do these two things, I tell my friends the supporters of the Bill and those who want to reform, that you will be getting much more. If the woman becomes a co-parcener in a husband's family. You don't disturb the joint family; the sons may continue. There may be good things in it there may be bad things, but let it crumble away and die its natural death later on. But give the woman a right in her husband's property, the same right as the son or the husband has. There may be some further points to be considered as to how this property is to go after her death and so on, but these are details into which I won't enter. I will ask hon. Members to give this matter the most serious consideration and then to see whether this is not a scheme which is not much better.

With regard to the unmarried daughter, I see no reason whatsoever why she should not get a full share along with the brothers in the father's property, because no dowry has been given to her and she should not be made dependent. Some of my friends have been painting glowing pictures of the love which the brother has for the sister and how they take great efforts for the marriage of the sister. Quite true, some people do it, many do it, but we know of cases also to the contrary where the brothers, particularly the brother's wife corners the whole thing and very little is left by way of dowry to the sister particularly if she is going into a family which is not very strong and has not got much influence in the village. So, we must make provision for that also. May I say that there is considerable authority in the *Shāstras* also for that? Some say her share should be one-fourth, some say equal, some say it should be one-half. I am not for half, following the Mohammedan law; she must be given full.

Shri B. L. Sondhi (East Punjab: General): For how long will the unmarried girl continue to enjoy the property?

Dr. Bakhshi Tek Chand: Once property is vested, it vests and there is no question of divesting it. After all it won't create much disturbance in the family. We must make some provision; we can see that adjustments are made later on.

A word regarding the Chapter relating to marriage and the Chapter on divorce. My objection to this portion of the Bill is a very simple one. The first part of the Chapter deals with monogamy and I am a whole-hearted supporter of the provision that every Hindu should marry once only and not more than that. The majority of our people do that.

Shri H. V. Kamath: Once or not at all.

Dr. Bakhshi Tek Chand: All the arguments that there is no son etc., are of no use. Where is the guarantee that if you marry three wives one after another one of them will produce a son? It is all a matter of chance. Therefore that is an argument which does not appeal to me in the least. As a matter of fact and as a matter of practice the large majority of Hindus have only one wife and I see no reason why that provision should not be put in here.

श्री लक्ष्मीनारायण साहू: मैं पूछना चाहता हूँ कि उत्कल में तीन लाख ज्यादा

स्त्रियाँ हैं, अगर आप एक एक की बात करेंगे तो, तीन लाख के लिये और कहाँ बन्दोबस्त करेंगे।

Shri Lakshminarayan Sahu: In Utkal there is an excess of three lakhs of women. If you start talking of one for one, I should like to know where would you provide for the three lakh extras?

Dr. Bakhshi Tek Chand: Here again, religion has been brought in. In Baroda in 1931 the Monogamy and Divorce Bill was passed by a legislature 95 per cent. of the members of which were Hindus, under the aegis of a Maharaja who was an orthodox Hindu. For nineteen years that Bill has been in force. Can we say that Hinduism in Baroda has come to an end because of that Bill? In Bombay Mrs. Munshi's Bill was passed in 1946 and became a part of the law of the land. In Madras last year the Madras Legislature passed a similar Bill. Thus we have got practically the whole of South India where monogamy is a law of the land. Hinduism there has not been destroyed. All our Madras friends are as strong and as kicking as they ever were. Therefore, I consider this provision is a very salutary one and must be maintained.

श्री गोकुलभाई दौलतराम भट्ट: आप अगर इजाजत देंगे तो जानकारी के लिये दो एक सवाल पूछना चाहता हूँ।

Shri Gokulbhai Daulatram Bhatt: If you, Sir, permit I should like to ask one or two questions for information sake.

Mr. Deputy Speaker: He does not give in.

श्री गोकुलभाई दौलतराम भट्ट: मेरा सवाल यह है कि एक पत्नीव्रत को बात आपने कही वह ठीक है, लेकिन जो पत्नी हयात हो, जीवित हो उसकी इजाजत से दूसरी शादी कर सकते हैं या नहीं।

Shri Gokulbhai Daulatram Bhatt: Whatever you have said about monogamy is quite true but what I want to ask is whether a man is permitted to remarry in the life time of his first wife if she consents to such a marriage?

Dr. Bakhshi Tek Chand: I am very glad our respectable brother Gokulbhaiji has put that question. I say that you can get a woman's consent in any way you like. I have seen notorious cases of that. In one case there was an old man and an old woman. A very learned pandit, an astrologer was brought in, and after performing all the *pujahs* he said to the woman, “Your husband

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is going to die during the course of the next three months; the only remedy against that is that he should remarry and if he marries again he will have a son" and all that. And that old lady thinking that this great calamity was coming upon her gave her consent. Now, of course, there is not only one woman but five women in that house. (Interruption.)

Mr Deputy-Speaker: Order, order. The hon. Member has been anxious to sit down for the past half an hour but on account of the frequent questions he has to go on.

Dr. Bakhshi Tek Chand: I come to the last point, the question of divorce. "One of the great mistakes which have been made in this Bill is to make the provisions for the dissolution of civil marriages similar to the provisions for the dissolution of sacramental marriages. In this respect, the Bill as now reported by the Select Committee differs from the Bill which was originally framed by Sir B. N. Rau's Committee in 1944 and then revised by him in 1945. What I say is, so far as civil marriage is concerned you maintain the present law which gives the same rights as the Bill gives. But do not try to introduce provision for conversion of sacramental marriage into civil marriage. Sacrament is a sacrament. As has been originally suggested and as has been permitted by some of our old *Smritikars* the rule of divorce should be limited within the narrowest possible bounds. With regard to this, B. N. Rau's position was this.

Impotency at the time of the marriage which has continued up to the date of divorce. This is a condition to which no reasonable person can object.

Then the person may have been an idiot and the fact may have been concealed. This is a second physical thing, which cannot be quarrelled with.

In addition to these two conditions, you can allow divorce when a person changes religion. A Hindu may become a Muslim and marry. Under the fiction in the Hindu law that the marriage is indissoluble and the sacrament still continues, the wife is helpless. On what principle can you do that when the husband has changed his religion and gone to another and married wives according to his new religion?

Shri Mahavir Tyagi: Would it not result in this that whenever a divorce is needed, instead of undergoing the routine legal proceedings, people will change their religion?

Dr. Bakhshi Tek Chand: No, they won't change their religion. In addition to the above conditions, you can add desertion of the woman for a certain period; call it five years, six years or seven years. These conditions are, I submit, nothing new. They were known to our ancient *Smritikars*. I feel that divorce should be limited to these three or four cases. Have we not seen cases in which the husband after marrying has abandoned his wife? Have these unfortunate women no remedy? They should have a remedy. But I would limit it to these three or four conditions. But do not introduce litigation. If it is a case of proving adultery, evidence can be faked. Some sort of collusive evidence can be produced and the charge proved. But I do want to introduce that in a sacramental marriage. My submission as in my minute of dissent is that the chapter relating to marriage and divorce should be recast. We have two kinds of Hindu marriages: the civil and the sacramental. In the one you know the conditions under which it can be dissolved. In the other you can have all your new modern ideas. I would ask the supporters of this Bill to give their serious consideration to it and see whether it improves the position of women. If my suggestions are accepted, it will make the present Bill much better and women will rise to the full stature of their womanhood. They

will have full right to property. It will give them emancipation on the economic side. Under the new Constitution there is adult franchise. We have women Ministers in charge of different branches of Administration. We cannot limit the right of woman, the mistress of the house, and say that she would be entitled only to maintenance but not other rights. That would be a gross injustice. It would be contrary to our ancient laws. What was introduced in between might have suited the particular circumstances and conditions of those days, but they are all outworn. They are not part of the Hindu religion and should be done away with. We should get rid of this jungle growth and go back to Vedic conceptions. These are briefly my submissions and I would ask everybody to give them their serious consideration.

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): May I ask one question in clarification? Supposing a woman becomes a co-parcener in her husband's family; will her share be part of the husband's share or will it be separate?

Dr. Bakhshi Tek Chand: So long as they are joint, it will be joint ownership of the whole family just as you and your sons are co-parceners in the property, but if there is a division, then she will become independent. It is a new addition just as a son. It is very simple.

An Honourable Member: Sir, the question may now be put.

Some Honourable Members: No, no.

Maulana Hasrat Mohani (U.P.; Muslim): I will take only five minutes.

Some Honourable Members rose—

Mr. Deputy-Speaker: Order, order. Will all Members kindly take their seats? I find a large number of Members interested in speaking, but as I said yesterday, if we go on at this rate, we may have no time even if we sit for a month or two months. There is no tendency on the part of Members to limit their speeches. This Hindu Code covers not only Hindus. Hindu law of marriage and customs, but it applies to Jains and Sikhs also. It does not apply to Muslims, Christians and Parsis. (Interruption).

An Honourable Member: There are clauses which affect other people also.

Mr. Deputy-Speaker: Hon. Members know fully well that when the Speaker is on his legs, no Member should get up. I need not remind hon. Members about that I therefore propose to call a Member of Jain community and a member of Sikh community and then others. Prof. K. T. Shah.

Shri H. J. Khandekar (C. P. and Berar; General): Why not the Harijans?

Maulana Hasrat Mohani *rose*—

Mr. Deputy-Speaker: I am not going to allow this hon. Member to come in now. I will first start with the others.

The Honourable Shri Satyanarayan Sinha (Minister of State for Parliamentary Affairs): I want to make one suggestion. If the House agrees, we can sit till 7 o'clock today and even after that, if members are not satisfied and there are still others who want to speak, we can sit on Saturday also. Government is prepared to allot half of Saturday for this business. There will be no Question Hour on Saturday and before Lunch we will have more than 2½ hours. If that suits your purpose and if the House agrees, then that will obviate all the difficulties.

Mr. Deputy-Speaker: I think it is a very reasonable proposal. I have already said the House will sit on Saturday. There is no going back upon that. If

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owing to exigencies of public business it is necessary that we should sit on Saturday, heavens will not fall. We are sitting on Saturdays for committee meetings. I have requested the Government to cancel Select Committee meetings on that day. I shall also see that no Select Committee meetings are fixed for Saturday. Hon. Members will be relieved of all other parliamentary work so that they can take part in the discussion on the Hindu Code.

The hon. Minister for Parliamentary Affairs has just suggested, on behalf of Government, that they are willing to allot Saturday, which they had originally intended for other Government business, for the discussion on Hindu Code. Finding that more hon. Members are anxious to speak, they are prepared to allot Saturday, the forenoon of which will be earmarked for non-official Member and the afternoon, allotted to the hon. Minister of Law for his reply. In addition he makes another suggestion for the acceptance of the House. It is open to them to accept it or to reject it. In view of the fact that there are many hon. Members who are anxious to speak, we may sit till seven o'clock today. I leave it at 5 o'clock today, when I shall find out whether the House is tired or is still active to continue the discussion. Personally, I and my friends of the panel of chairmen are prepared to sit till seven o'clock. I am entirely in the hands of the House in regard to this matter.

The Honourable Shri Satyanarayan Sinha: Sir, I said, on behalf of Government, that they are prepared to allot half of Saturday for the discussion on the Hindu Code Bill. But as you have already said that the whole of the day would be allotted for this purpose, Government will agree to that.

Mr. Deputy-Speaker: I hope Government will accept the suggestion which I have made.

Pandit Govind Malaviya (U.P. General): Sir, I wish to submit to you, in connection with your ruling, that on the assumption that Saturday will be a free day some of us have made important and unavoidable engagements elsewhere. Speaking about myself, I have got some unavoidable and important engagement on that day. I hope, Sir, you will keep that fact also in mind. If we had known that Saturday would be a working day, we would not have done that. Now this will be upsetting all our engagements, and I, therefore, request that instead of Saturday some other day might be fixed for the discussion of this important measure. It is open to the Government to do so easily. They can take up Government work on Saturday and allot some other day for the discussion of this measure. We will have no objection to that. But I hope that the House will appreciate that if other people who wish to take part in this debate are not able to come on that day, they should be given some consideration.

The Honourable Shri Satyanarayan Sinha: I think Government will have no objection if hon. Members wish to sit on Monday. On Saturday we shall take up other Government business.

Shri Ajit Prasad Jain (U.P. General): Why not continue tomorrow and finish the discussion on this Bill?

The Honourable Shri Satyanarayan Sinha: On Saturday we are meeting for transacting Government business. Government is prepared to have the discussion of this Bill put for Monday, but all the same Saturday will be an official day.

The Honourable Shri K. Santhanam: Members will have less time on Monday than on Saturday. But if the members are willing to conclude the debate on Monday we won't have any objection. But if the postponement is due to dilatory tactics.....

Mr. Deputy-Speaker: I am really sorry our friends are not co-operating. A suggestion came from Pandit Govind Malaviya and some other hon. Members—he is an important member and is taking keen interest in this Bill on one side or the other—that they would prefer this measure being taken up on any day other than Saturday and Government in consideration of their wishes was prepared to take it up on Monday. The Government spokesman has said so. Hon. Members are aware that on Monday there will be the question hour. Knowing this full well they have accepted that day.

Sjt. Rohini Kumar Chaudhuri: Most respectfully I would like to point out to you, Sir, that Saturday is a holiday given to us for certain purposes. I am willing to forego that holiday if there is an important reason for it. Now I want to ask this House, is it convinced, is it willing to finish this Bill as early as possible? What is the urgency for this Bill? We have more important Bills. We have the Insurance Bill which, according to you, must be passed into law this session. If this Bill . . .

Mr. Deputy-Speaker: The hon. Member will resume his seat. We have been hearing this objection from some hon. Members that there is no hurry to get on with this Bill. I am afraid there is no unanimity of opinion in this House so far as that matter is concerned. If there was that unanimity we would not be thirsting for time like this. It is a well known fact that opinion on that point is divided. On the mere suggestion of one hon. Member I do not want to take the opinion of this House.

Now it is clear that Saturday will be an official day when official business other than the Hindu Code Bill will be transacted. On Monday I propose to allow the non-official members to speak till mid-day. In the afternoon I propose to call upon the hon. Dr. Ambedkar.

Shri Mahavir Tyagi: Several of us have been waiting long to catch your eye. Shall I take it as your ruling that on the Hindu Code Bill no more Hindus shall be allowed to speak?

Mr. Deputy-Speaker: I did not say so; nor would I say so. The hon. Member has, unfortunately, though he is very alert, misunderstood me. All that I said was that not one single Jain or Sikh member, to whom also this Bill equally applies, has spoken.

Shri H. J. Khandekar: What about Harijans?

Mr. Deputy-Speaker: The sponsor of this Bill is the Leader of the Harijans. It is no good saying that the Harijans do not belong to the Hindu community. I think Harijans are as much Hindus as any others. This caste consciousness need not be pursued any further.

All that I said was that Jain and Sikh members will be given preference to other members. I have no intention of shutting out any others.

As it stands at present, I find that the suggestion of the Government is very reasonable. They have spent so many days on the discussion of this Bill and have given one more day. If still on Monday, it is the 4 P.M. general wish of the House that they should go on I am absolutely in the hands of the House. So far as the Chair is concerned, it is satisfied that there has been sufficient discussion.

Shri Mahavir Tyagi: I protest against this. I feel that the Chair's benign eye should not make a distinction between any class, caste or creed. Your eye should go round the House without distinction of majority or minority.

Mr. Deputy-Speaker: The hon. Member has thoroughly misunderstood me. Whenever a Bill comes up for discussion which affects certain communities—unfortunately there are different communities in this country—a chance should be

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given to the representatives of all communities to express their views. If the hon. Member reads this Bill, he will find that the scope of the Bill includes Jains and Sikhs also. A number of Hindus have already spoken and so I must allow some Jains and Sikhs to speak now. We must know their viewpoints before we go through the Bill clause by clause.

Shri Mahavir Tyagi: I protest. . . .

Mr. Deputy-Speaker: I cannot tolerate this. The hon. Member will kindly note that it is improper to use this language.

Prof. K. T. Shah (Bihar General): Sir, originally when the Bill was first introduced and this motion came before the House, I had no great intention to intervene in the debate. But now that the debate has proceeded so far and a variety of views have been placed before this House, now that there is freedom of voting from Party mandate, I feel it necessary to make some observations arising out of the motion, and of the Bill, which, I trust, will receive the consideration of the hon. the Law Minister and his colleagues.

You, Sir, have been pleased to say that I have been called upon as a Jain to speak on the matter. I stand here only as a member of the House, and can claim no special right of privilege to speak as a member of any community. I call myself only an Indian citizen and do not regard a belief in any particular faith a qualification or a disqualification for participating in discussions like this. I speak only as a member of this House.

Sjt. Rohini Kumar Chaudhuri: On a point of order, Sir, you called upon Prof. Shah to speak on behalf of the Jains but he says that he does not claim to represent the Jains.

Mr. Deputy-Speaker: It is no point of order.

Prof. K. T. Shah: I may also add at the same time that I am going to support in general the provisions underlying this Bill, even though I happen to have tried to form an opposition which is not yet recognised. Coming though, as it does, from a member professing to be in the opposition, and coming also from one who has consistently opposed almost every provision of the Constitution, every attempt at legislation of a structural or reforming kind that this Government has made, I hope and trust that the support that I am now extending, unconditionally and unreservedly to this Bill will meet with the appreciation that it deserves. Unless Government feel the wisdom of the old saying that the Devil may also quote the Scripture, and that, therefore any support coming from me should be looked at askance, it should be welcome. If that is their view, the opposition to this Bill would be served much more effectively by me than I at least would like to wish.

Holding this view, Sir, and offering my co-operation in this manner, I would like to say in all humility, with the utmost deference to this House, and even at the risk of incurring the charge that we as a people lack a sense of humour, I would not like to use any expression or illustration which might in any way introduce a tone of levity or lightness in this discussion. I regard this matter, this subject, as so vital to the very existence of our country. I regard this Bill as of such far-reaching consequence that I will not allow any expression or illustration to creep into my remarks which might in any way give any observer, any outsider, any student of our affairs, an appearance as though we are not sufficiently serious in this matter.

Having made these observation, I would proceed to examine some of the objections that have been raised, some of the pleas that have been urged in regard to the subject matter or even the basic principle of the Bill. The challenge has been made, Sir, whether this body is competent to deal with a

subject of this character, whether the House has been elected on a clear issue to determine the contents of this Bill, or whether there is sufficient urgency in this matter to allow this House to deal with this proposition. I for one do not think that there can or should be any question about the competence of this body to deal with subjects of this character. The hon. Member who spoke just before me has given a number of illustrations in which structural changes including the Constitution had been proposed by legislative measures in this House, and carried. Even more important reforms had been made by the legislature preceding this which was not of the same sovereign character that this Legislature is, and therefore the question as to the competence of this House to deal with matters of this character seems to me to be irrelevant, unbecoming and, if I may say so, not quite respectful towards this Assembly, for while it is quite true that this single issue was not placed before the electors, those of us who recollect the manner and method by which we have been elected to this House will realise that not on any issue was this House elected except that of acquiring independence and shaping a constitution for the country. If you press that argument too far, I am afraid you will render many matters with which this House has dealt with as either illegal or *ultra vires*. I would not like therefore that any suggestion of this character can be or should be advanced so as to throw any doubt whatsoever, on the competence, the authority and correctness of this House in dealing with and disposing of such matters.

Sir, in general elections also, it is not possible to have each issue separately examined. As all those who have any experience of popular general elections will realise, general elections are always fought on a multiplicity of issues. There is therefore not any clear indication of a majority on any individual issue of such complexity as we are dealing with now. Unless the Constitution provides a method like referendum, unless we had a constitutional device like that suggested by Mr. Gokulbhai Bhatt we would find it extremely difficult if not impossible, to get a clear verdict of the people on issues of this character. There would really be no means of ascertaining popular opinion. Even then there may be those who would say, given the state of public education in this country, given the state or the condition in which the press in the country is monopolised by a few individuals, given also the lack of experience of the voter in matters of this character, the decision of the people, even if competent, may be open to question. I would, therefore, suggest that an argument of this character ought not to influence the judgment of this House and we should confine ourselves to the discussion of the proposition, as I am happy to see in many quarters it has been.

The opposition to the Bill is led and is made up of people for whose opinions, I have personally very warm regard. I am not, therefore, prepared to say that this is an opposition of vested interests, that this is an opposition inspired by ulterior motives or dictated by other considerations. I fully realize, Sir, that the opposition has in many cases very serious grounds for holding the views that they do, and though, I have the misfortune of differing from them, I cannot for that reason say that their views are not entitled to the widest consideration we can give them. On that standpoint, I feel that there is a great deal of force in the arguments of those who question the urgency of the matter and are prepared—if not, differ discussion—at least take much more time on the discussion than seems likely to give to this matter, but by saying this, I should not be misunderstood; I should not be understood to say that I would like the matter to be indefinitely postponed. I should like this body, whose sovereignty, I would not question, to give a decision on this matter once and for all, and though I am fully alive to the consideration advanced by one of the hon. speakers that there is no guarantee that the next House will accept the decision, even if we give it, I feel that once an indication is given, once a sign-post is

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erected, once a road is built, it would be difficult to reverse the engine and go back. However, that is a matter of faith rather than of reason, of general belief rather than of intellectual conviction, and I am therefore, open on this matter, altogether, but taking however into consideration the main points that have been urged against the merits of the provisions contained in the Bill, I feel it impossible to accord my support to the opponents of the several sections of the Bill, several chapters in the Bill, or the provisions in the Bill. The main difficulty centres round, so far as I can see on the position of women. I have already said Sir, that I have not the slightest desire to bring in the least bit of levity in this discussion, and, therefore, some of the arguments, some of the points made earlier in this debate on this matter leave me somewhat cold. We are building up a country of equal citizens irrespective of religion, sex, class or creed. If that is the principle upon which we take our stand, if that is the preamble of our Constitution and the guiding principle of the life that we are to build up for this country hereafter, then I think that the provisions of this Bill are in full conformity with the ideals enunciated in the preamble to the Constitution and as such anything which we now propose that would be in any way different from or derogatory of this provision ought not to be accepted by us. The attempt made in this Bill to place women on a position of equality in regard to family relationships, in regard to inheritance, in regard to property, in regard to marriage or divorce, is an attempt not only in consonance with conditions now prevailing all over the world and coming into vogue in our society as well, but are conditions, which in my opinion are dictated by a full realization of the actual conditions and observed trend of events everywhere. It is true that for ages past, marriage has been regarded as a sacrament, but there is nothing, so far as I can see in this Bill, to prevent anybody from realizing and treating it even today as a sacrament. After all, I venture to submit sacrament is a mere matter of your own heart and creation than an imposition from outside. How many sacraments are there, which though continuing to be sacraments are daily broken, broken in the worst possible manner and disgrace both the breakers and those who are parties to that? Sacraments cannot change merely because the law gives a particular character to the relationship of man and wife as is attempted to be in this Bill. Whether or not the law declares and recognizes a union to be a civil marriage or a civil contract, those who are parties to such a union, who have a very highly idealized opinion of the nature and function and objects of such a union will not cease to continue to do so. If, however, circumstances develop which make it impossible for them any longer to continue in that position, if conditions develop which make it impossible to maintain that high ideal, I for one think that it would be much better to discontinue the relationship by any legal and reasonable manner that can be found than to continue it to the mutual prejudice, to the continued misery of the parties concerned or the offspring. It is not a very pleasant matter, Sir, to suggest that there should be freedom for divorce if unions could be all made in the form, in the ideal, in the spirit in which they were supposed to have been made, but we live in a mundane world, with material considerations, with human weaknesses and, therefore, it is too much to expect that merely by an ordinance, merely by a firman, we would continue to keep and maintain unions in the idealist sense in which they have been believed, conceived and maintained.

Permission, therefore, to dissolve in a legal, reasonable public manner unions which have become oppressive, which have become a source of misery to the parties and their off-springs, is nothing more in my opinion than a recognition of the actual prevailing circumstances and the developments that may have in any given case taken place, and therefore, it is that even though one may not like the idea, one must recognize realities, one must face the

actual position and admit that it is much better that we should discontinue or dissolve such unions than that we should continue a misery for such parties.

The idea that these unions should be monogamous in character while they last is also one which in my opinion is the basis, is the foundational condition, of a continued happiness, continued success of such unions. There may be occasions, however, when such unions as I have just said prove unbearable or intolerable by circumstances that neither party could foresee, but in that case, without too much fuss, without going into an operation that might involve washing of the dirty linen and mere palming to the gallery, so to say, by sensationalism, we might in our law devise machinery by which this union could be easily dissolved without unnecessary prejudice to any party. I do not see therefore that we need insist upon reasons or conditions or excuses that any other legal systems have been made necessary for granting divorce and I think it would be much better if divorce is made easy, simple and unexpensive, more than is, at any rate, the case in some of the western countries whose model we have been following. The question of inheritance, the question of enjoying a share of the patrimony is again one which does not seem to me to be a just cause for the degree of heat that it seems to have evoked in this House. After all in this country how many people are in a position to have property and leave such property outside beyond their life? If you go by standards, if you go by measurements such as that of the income-tax statistics, you will find that perhaps less than a million people are in a position to have an income of about Rs. 250 a month and that would include all people, not only those who are regarded as income-tax payers, but those who try or manage to escape that.

In a population of over 300 millions, the income tax paying class number about one million, or with their dependents about three to four millions and that is less than one per cent. of the total population who can possibly afford to have some property that can be divided or that can be the cause of disaffection or of inequality of rights as between the descendants of common parents. I see really no reason why on this subject any heat should be generated, as regards the recognition of equal rights of daughters and sons in the matter of division of patrimony. Speaking for myself, I may say, I do not believe in any property at all, and the sooner the day comes when property as a whole is abolished, when provision is made for everybody by the community, provision to see that everybody gets work and gets his or her wants or requirements met, the sooner that day comes the better for the community. And this source of evil, a learned lawyer called it the source of strife, I call it this property which is the source of evil, I say that property should be abolished, and the sooner it is done the better it would be for the community and for legislations of this kind. If it were possible at this stage to suggest an amendment of the kind I like, I would even suggest that all clauses relating to property be abolished or deleted and a simple proposition be inserted that while property continues, property of any kind, both land or personal, it shall be equally divided. That would be sufficient for the time being, and we ought to endeavour that the day draws nigher and nigher when property as a whole will be abolished and everybody would have the same right to work, the same right to enjoy a given standard of life as those who are advantageously situated with patrimonies in their hands.

On these two crucial issues, therefore, one of marriage and the other of inheritance, I say that the Bill goes no further than what conditions around us necessitate. If and while you maintain an individualistic society, if and while property remains to be the corner-stone of or the foundation of your social system, and the profit motive remains the governing impulse of the social machine, so long I see no reason why there should be inequality. The equality

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should not be merely nominal. Political equality, the right to vote would mean nothing so long as economic equality also is not assured to every human being, to every citizen of this country. One has heard a great deal and I was very glad to hear it all that in the essence of Indian civilisation, in the essence of our social system, the highest honour is paid to womanhood. If that is true—and I do not doubt it—then I do not see why mere sanction of equality in property should be excluded, if you are really so worshipful of womanhood, if you are so respectful and reverential to womanhood, why do you hesitate at all to give her equal right to what after all, is mundane property, that which must be left behind by every one of us, however, much we may be attached to it. However much one may hold and accumulate property. I do hold, and I say it with the utmost reverence and the utmost humility, that I consider that in the process of evolution woman seems to be more highly evolved, a finer organism than man. It is not, however, any disparagement of either sex. All I say is that, given the function that nature seems to have entrusted to women, given also the function and the objects with which womanhood has to deal in this social system, we cannot regard or respect womanhood too much, and as such I would not like the least sign of inequality, the least semblance of differentiation or invidious distinction between man and woman, as between son and daughter of the same parents.

The question, however, of adoption or of guardianship and so on, does not interest me to the extent that some hon. Members of this House seem to be interested in it. Adoption or for the matter of that testamentary powers appear to be artificial extension of the human personality beyond death which is utterly unnatural, in my point of view. It is bad enough to have and hold and control property, it is bad enough to have and hold the property and the profit motive in our minds while we are alive. Why should we continue to prolong our personality? Why should we desire to insist upon our orders being obeyed even after death? Why should there be this artificial extension of personality by such an instrument as adoption? Knowing, however, that it is an ancient institution, knowing however, that it is an institution which many regard as a point or as a factor in their salvation, I am not prepared to suggest that here and now we should abolish it. I am prepared to say, if you regard it as a source of your salvation, if you regard it as something by which your personality is perpetuated, your civilisation or culture or work in life is continued then it is necessary. But in that case you need not have inequality between man and woman, no discrimination or legal restriction between man and woman. The same right should be extended to every one in the community. I base my support of this Bill on grounds of social justice, economic equality and of political propriety. I should think that the Constitution that we have adopted, that the ideals that we have held before us, that the hopes that we have entertained of a planned and progressive society here-after, in view of all that, I think we cannot do better than take this Bill as the beginning in the right direction. We cannot do better than recognise the provisions it has incorporated, regarding removing all inequalities as between man and woman. It is not merely a matter of recording every five years of every three years one's vote at the general election. It is also a matter relating to life and work, of equal opportunities to health and education of standard of life and the same fulfilment of the elementary wants of human beings, in the matter of food, shelter and clothing. These should be available, and should be made available if they are not available by the concerted and common action of our society as a whole. Society should realise this obligation that it is not merely a paper proposition that we have enunciated in our Constitution, but it is a sacred duty and obligation that ought to be discharged at the shortest measure of time that we can manage it, that all these things should be made available to every citizen

of the country so that the hopes and aspirations that we have formed, so that the hopes that we have entertained ever since the freedom of this country was achieved, could be realised. It has been said by a very great American—President Lincoln, that a nation cannot be half slave and half free. While not exactly slaves one half of this country, of our community still feel disabilities and weaknesses or invidious discrimination against them, which it does not wish should be allowed to continue any longer. In this connection may I mention a statistical fact which perhaps is not realised by every person in this House? It is this. While woman is in a majority at birth, on the over-all population she is in a very striking minority. Whatever may be the conditions in a province like Utkal, on the whole in India woman has always been in a minority almost beginning from the age when marriage begins, from about fifteen onwards, their numbers go on thinning so that in the over-all population woman was and is still in a minority. What is the significance of that?

[At this stage Mr. Deputy-Speaker vacated the Chair, which was then occupied by Shri S. V. Krishnamoorthy Rao (one of the Panel of Chairmen).]

I for one think that it is because of the unequal treatment given to women, as between boy and girl, as between son and daughter that it has resulted in a majority at birth being reduced to a minority on the whole, so that that charge of unequal treatment must be faced. Here is a Bill which tries to remove that. There are many provisions in the Bill which may not satisfy everybody, even those who on principle accept the Bill, even those who realise that it goes a great way forward in rationalising our society, simplifying our legislation and organising our social system to a given end. But we are not discussing details just now. Specific provisions apart, the principle underlying the Bill, the motive spring of the entire structure should commend itself to the House and I trust the House will accept it.

श्री लक्ष्मी नारायण साहू : सभापति जी, मैं यह कहना चाहता हूँ कि मैं ने यह दिल्ली में नहीं कह दिया था कि उत्कल में स्त्रियाँ ज्यादा हैं। उत्कल में तीन लाख स्त्रियाँ ज्यादा हैं और जब उन लोगों की शादी के लिए वर नहीं मिलता है तो उनकी शादी एक सहाड़ा पेड़ (tree) के साथ कर दी जाती है।

(English translation of the above speech.)

Shri Lakshminarayan Sahu (Orissa: General): I would like to say, Sir, that I did not mention this thing as a joke that there are more women in Utkal. The number of women in Utkal exceeds by three to four lakhs and when it is not possible to find out a match for their marriage, then they are married to a Sabada tree.

Prof. K. T. Shah: I am speaking of the whole country and not of any particular province. Therefore it is not necessary for me to answer this particular question. Let it be left there.

Sardar Hukam Singh (East Punjab: Sikh): Sir, at this late stage of the debate I feel it is not very easy to advance fresh arguments or make new points on the subject, on which so many distinguished lawyers and eminent scholars have taken part for so many days. But as I have been called as a representative of a particular community, to which this Bill applies, I must say something which should represent the feelings of my community so far as this particular code is concerned.

I do not agree with my learned friend Prof. Shah when he said that he wants to speak only as an Indian. I would have gladly repeated the same phrase, had this code applied to every citizen of India but as it stands it applies to certain communities only. Therefore I feel and believe that I have a right and a duty to speak on behalf of my community.

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Though I have the advantage of having heard so many scholars at the same time I feel I have certain disadvantages as well, because most of the things have been said and if I repeat them they would look stale. I have therefore decided to confine myself to certain points only which particularly concern my community and on which I feel that I have to express my views.

At the outset I might make it clear that I do not want society to stagnate. I am not one of those who would say that social laws should remain as they are. I would like to change them as times change. I am not so orthodox as to say that we have no right to march with the times. Nor am I of the opinion that this House is not competent to enact this legislation on account of its being elected indirectly or on account of lack of any special mandate as regards this Bill or on account of any other reason. I feel that this House is competent to enact any legislation and hence this Bill also is within its competence. In spite of all this I feel that I cannot lend my wholehearted support to this measure as it stands.

If the original scheme had been adhered to as suggested by the Rau Committee perhaps certain portions of this Code might have been passed without opposition. There must be unanimity on certain branches of this Code. But I will confine myself to certain points only and therefore I do not want to touch on all aspects of the general principles of this legislation.

The Preamble says that the Bill is intended to amend and codify certain branches of the Hindu law as now in force. But when I look into the Bill I find that there is nothing of Hindu law that is being codified here. Divorce is being taken from the Christian countries and the law of inheritance from Muslim law. To me it is rather a misnomer to call it a codification of Hindu law.

Dr. Mono Mohon Das (West Bengal: General): There are so many castes and tribes in the country among whom the divorce custom is prevalent. Are they not Hindus? Does the hon. Member want to get rid of them?

Sardar Hukam Singh: If you will permit me, I will come to that question later. I hope you will have the patience to hear me.

As I said I will confine myself only to certain points so far as my community is concerned and will not go beyond them. In the Preamble it is said that the Bill is intended to amend and codify the Hindu law and I repeat that I do not find that in this code. If as we were told by the Mover at the outset that 90 per cent. of the people have divorce, I have no objection and let them remain as they are. You might call that Hindu law but not this system you are introducing in this Code.

In clause 2 it is said that this Bill applies to Sikhs as well. It would have been a matter of gratification or even of much pride to us, if Sikhs had been included among Hindus for the conferment of certain rights. But what I find here is that as soon as the embrace is extended in clause 2 a severe blow is dealt to all customs and usages by clause 4. All custom is gone and usages eliminated. I must submit here that "custom" in clause 3 has been defined as "having been continuously and uniformly observed" and that it must be "certain and not unreasonable nor opposed to public policy". Why should such a sacred rule of conduct be treated with such contempt that it should be ruled over once for all? I have grave objection to that. My objection is particularly based on this fact that my Province, namely the Punjab, is a Province where custom is the first rule of law. In all matters like divorce, marriage, succession, inheritance, wills etc. custom is the first rule as is laid down in the Punjab Laws Act. They have those customs which they

observe from a long time and everybody in the village understands what that rule is which he is to observe. There have been judicial pronouncements on these customs and they are ordinarily understood by every villager. There is no dispute about that. Therefore I feel that this change would bring about a fresh phraseology and would create complications for simple peasants who have all along understood their laws well.

My second objection is about marriage. I might make one observation here. It might be said that the Sikhs have all along been governed by Hindu law up to now. But what I object to is the change that is being brought about. I have no objection absolutely if the Hindu Law were to continue as it is. But as the changes are being brought from outside I feel the Sikhs must have a grievance and feel that either their customs should be allowed to remain as they are, or they should not necessarily be bound to revolve round the wheel as it goes on. I was referring to the marriage question. Of course I feel that in Hindu law or in Hindu culture the wife has so long been advised to merge herself into the will of the husband. She has been an embodiment of sacrifice. That has been her nobility and greatness. If now our females feel that they have been subjugated for so long a time, that they have suffered and that they are not prepared now to continue to suffer, I would certainly advise my brothers to take up the subordinate position. But I feel that this insistence on equality in every matter and in home life would not be conducive to happiness or peace in the family.

Then again my complaint is that only two kinds of marriages have been recognised in this Bill. One is the sacramental form and the other is the civil form. I must inform the House, though I believe most of the Members would be knowing it already, that the Sikhs have another form of marriage which they have observed for the last one hundred years. That is called Anand marriage ceremony. That is a simple form. The couple are brought before the Guru Granth Sahib, they take a vow and go four times round the Granth Sahib, then offer prayer and then the marriage is complete. Now, it is not civil marriage because it has not to be registered anywhere. It is not sacramental marriage because the sapinda relationship or the restrictions of prohibited relationship degrees are not adhered to strictly. Therefore what I am afraid of is that this form of marriage that we have been observing for so long would not be a valid marriage. Doubts arose in the beginning of this century and then a particular Act had to be passed in 1909—the Anand Marriage Validating Act—when it was enacted that all marriages solemnised according to this form were valid. But now, as I read it, I am doubtful whether this marriage will be recognised under the Hindu Code. Therefore I feel that the Sikhs would feel much concerned over this and would have grave apprehensions over this matter particularly. I want to bring it to the particular notice of the Mover that left to themselves they are not prepared to forego this form of marriage and he should take particular note of this.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Such a marriage would be invalid under this Bill.

Sardar Hukam Singh: I also feel that it would be invalid under this Bill and that is why I am submitting the position before the House and before the Mover particularly.

Then I have to submit one observation about divorce. It has been said that divorce is already there among a large percentage of the population. It may be. My appeal is this. If it is there let it go on. Do not restrict it with certain conditions that would make it more expensive. An ordinary man would feel that this change is not for the better but for the worse. If they have an easy mode of dissolution of marriage now and are hereafter being

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compelled to resort to some more complicated and more expensive method, certainly they would not welcome it. It is argued that there are evils creeping. The Bill is a permissive one. That there is no compulsion for anybody. But we have to be on our guard whether the remedy proposed is not worse than the malady itself. There are evils no doubt to a certain extent. But if we loosen the bonds, a small percentage of the population would be happy to break all ties and secure relief from their self-created miseries. But what about the large majority? Would you not be opening a trap for them, and a temptation to make mistakes, and have a trial of their future as they will realise that there is a way out to end it?

Then I come to my second main point and that is about adoption. Adoption in my province, that is the Punjab, is a peculiar institution. It is called the customary appointment of an heir. It has nothing to do with religion. It is a simple declaration for practical purposes, where the owner of a land nominates a person who is to be his assistant for cultivation during his lifetime and an heir to his farm after his death. As I have said, it has nothing to do with religion. There is no restriction as to age or as to relationship. You are now proposing in this Code that a daughter's son or a sister's son may be adopted but I must convey to you that already in the customary appointment of an heir daughter's sons are most ordinarily appointed, sisters' sons also are appointed. There are absolutely no restrictions. A young man can adopt a man of his father's age, a man with many sons might be appointed as an heir. That might look strange to some people here but I tell you that it is a fact. A married man, a man with children might be appointed an heir. That is a most secular institution; it has got nothing to do with religion. How are you going to provide for such an institution? Are you going to throw it out? Surely that has the sanctity and sanction of ages, it is so popular in our part of the country that it cannot be thrown away like that. People would not submit to it so easily and so far as this part of the law is concerned it would be a dead letter if it is pressed and forced on our people there.

Then there is the question of succession. I agree with my friends that our females, sisters and daughters, should have a share in the property, but I cut it short by saying that I agree with my learned friend Dr. Bakshi Tek Chand when he enunciated some time ago that they should have a share in the father-in-law's property and not in the father's property after marriage. I have particular reasons for that because as I have stated the circumstances of my province are very peculiar. The Punjab is a province of small peasants; small farms of three or four acres are the ordinary holdings. Such a person cannot be expected to have more than two bullocks which he might have secured after raising some loan, one *hal* and one *panjali*, and one *gadda* also to take manure to the fields or to bring fodder from the fields to his house. The Code would not apply to agricultural land, but what about the movables? What about his bullocks? Take the simple case of a family with one son and one daughter. The father dies, these movables are to be divided among these two. (An Honourable Member: Why not?) I don't say that, I say it must be divided. Ordinarily they would have a cow as well and I think the Mover would have to give us the mode of dividing that cow, *hal* and *panjali*. The son-in-law who comes from a distance of say fifty miles is interested in that part of the country; here he cannot live with his brother-in-law because the four acres holding cannot provide him with anything. His interest is elsewhere and therefore he must divide the property and go away. The sister would demand her share: surely she will take away one bullock, one half of the cart, one half of the *panjali* and would go away never to come back, thanking the framers of this Code, and of course not to be welcomed again! (An Honourable Member: The brother's own brother-in-law will thank him!).

That is a very easy question that is put, but it is not realised that when there are more than one—two, three or four—brothers in the East Punjab, they join the Army, they are adventurers, they have gone to the farthest corners of the world, to Argentine, Brazil and South America. They bring money from there and buy more lands, they live together with a common kitchen.

Sir, my submission is that this provision would create difficulties. I agree with my learned friend Dr. Bakshi Tek Chand that so long as the daughter is unmarried she must have a share in her father's property, but as soon as she is married she must be transferred to her father-in-law's there to have an equal share with right of partition and everything else. I am not against giving a share to the females—I might not be misunderstood in that respect.

I am afraid that our educated girls have much leisure. An ordinary girl, when she gets educated, does not absorb herself in the household duties, therefore she has not enough work to keep her busy in the house.

[At this stage, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) resumed the Chair.]

The State should provide occupation for their leisure hours, give them useful and constructive work to do. Legislation like this and divorces would not root out the evils that you want to eradicate. Before destroying the joint family, the State must provide for old-age maintenance, illness allowance and several other things. If the pious duty is gone a mere charge on property would not do. The effects of this legislation, so far as I can think out, will be further fragmentation, love and sympathy eliminated, divorce and partition courts in larger numbers, female infanticide promoted, and care and attention of children neglected.

Shri V. I. Munishwamy Pillay rose—

Shri B. Das (Orissa: General): Sir, are we continuing till 7?

Mr. Deputy-Speaker: I have no objection to sit till 7 o'clock. What is the general sense of the House?

Some Honourable Members: No, no.

Shri L. Krishnaswami Bharathi (Madras: General): Sir, we can sit as long as there is a quorum.

Some Honourable Members: No, no.

Mr. Deputy-Speaker: I have heard sufficiently. One voice cannot multiply itself into many. How long is the hon. Member likely to take?

Shri V. I. Munishwamy Pillay (Madras: General): About fifteen minutes.

Shri L. Krishnaswami Bharathi: Sir, the idea is to give opportunities to as many Members as would want to speak. It is rather surprising that people don't want to speak. I suggest that we sit as long as people are ready to speak and we are here to hear and when there is no quorum we will automatically stop.

Shrimati Purnima Banerji (U.P.: General): The argument forwarded by hon. Members is that many members want to speak on such an important measure 5 P. M. as the Hindu Code. When there are so many of us who are willing to say what we want to say and can be accommodated what is the objection to sitting till seven?

Mr. Deputy-Speaker: I entirely agree. If majority of the members are willing to sit and speak, I have no objection.

Some Honourable Members: Yes, we are willing.

Mr. Deputy-Speaker: Very Well. Let Mr. Munishwamy Pillay finish. We will see.

Shri V. I. Munishwamy Pillay: Coming as I do from a community that was at the outskirts of the Hindu Society for centuries, I welcome this measure of religious and social reform. We who form one-sixth of the population of India welcomed the advent of Mahatma Gandhi who revolutionised the Hindu society so that not only Caste Hindus but all sections of the Hindus could have an equal place. Some of the friends who preceded me said that religion was in danger. I do not know wherefrom and in what form their objection springs. This country is proud of many Avatars—Lord Buddha, Sankara, Ramanuja—and great social reformers like Ram Mohan Roy and in the present century, the great Mahatma Gandhi who found that untouchability was eating into the very vitals of our nation and himself showed the way for inter-caste marriage. All these reforms show that we are in line with the present age. Whenever any social reform came up before the legislatures, obstructions were placed in the way, so that reforms may not come about. Coming from Madras, I may inform this House what kind of trouble we had when the Temple Entry scheme was before the Madras Legislature. Even in the matter of removal of social disabilities of untouchables, the Ministers had to find themselves in the midst of people who threw chilly powder in their face. Such is the state of affairs when we bring social reform in this country. The great Sankara who brought *Adraidism* to our land, when he was asked by his Guru "Who are you?" he said:

न मे मृत्युङ्क्षा न मे जातिभेदः ।

पिता नैव मे न माता न जन्मः ॥

न बन्धुर्न मित्रो न गुरुर्न शिष्यः ।

चिदानन्दरूपः शिवोऽहं शिवोऽहं ॥

These were the words uttered by the great Sankara. He never differentiated man from man, woman from woman. He thought every one was equal. I do not understand why there should be so much opposition to this Bill. In the South the great philosopher Thiruvalluvar has given to the world tenets as to how a man and woman should move; what are the conditions under which they should live. They are pearls. I do not understand why there should be objection to the woman getting equal share in all amenities that are given by God to the human beings.

Some of the members who preceded me said that the time is not opportune. This measure has been before the country ever since the resolution of the Central Assembly was adopted on 20th January 1944. This Hindu Code has reached the nook and corner of India and not only educated men, but the masses in general have understood the theme of this legislation. I do not know whether such members as told the House that it is not competent to deal with this Bill are talking with a sense of their responsibility to the country. I do not know whether members of this Assembly who have the proud privilege to produce a Constitution for thirty crores of people, which has been welcomed not only in India but in foreign countries, are not competent to deal with this Bill for the uplift of women in this country. We have clearly laid down in the Fundamental Rights of the Constitution that the State shall not discriminate on grounds only of "religion, caste, sex...". We have got again Article 15 (3) which says that "Nothing in this Article shall prevent the State from making any special provision for women and children." Again in Article 46, it is stated: "The State shall promote with

special care the educational and economic interests of the weaker sections of the people....." Do not women come under this category, and ought they not to be protected? After all, this legislation is a permissible one and ought to be welcomed by everybody.

If you study the rules regarding marriage, inheritance, adoption and all these things of Hindus in the different provinces, you will find that they are not the same. They differ in many places. In the Constitution we have said that we must evolve a common Civil Code. This legislation is, in my opinion, the forerunner before we come to that stage. I come from a district where there are a lot of hill tribes. Their marriage ceremonies, laws of inheritance etc. differ substantially from those of Hindus, although they profess to be Hindus. Among the picturesque *Toda* aboriginal community, there is polygamy and due to this social evil the community is dwindling. The ceremonials of the other tribal community of *Badagas* also differ from those of Hindus, although they profess to be Hindus. The custom among them is that when a man wants to marry a girl, he has to pay dowry—what they call *Thiruppanam*. After that, if the woman wants to go away from the husband and if another man were to pay the same dowry i.e., *Thiruppanam*, the woman is free to choose another man.

In a land which has produced great saints and sages are we to continue these things? Whether it is the tribals or hill tribes they all have to be protected according to the New Constitution.

Sir, in Madras province, as has already been observed by some of my hon. friends polygamy has been statutorily abolished. Now, unless we codify the law for the whole country, it is open to a man to leave Madras, get married in some other province and return to Madras. Unless there is a uniformity in regard to the law obtaining in all the provinces it is not possible for the Madras province alone to have this law enforced.

The other cardinal points of the Hindu Code Bill which is now before the House are the chapters relating to marriage and divorce. It has already been pointed out how essential it is to have both civil and sacramental marriage. According to this the Scheduled Castes find that the *yogam* must be performed and the ordinary *thal* tied. Then only does the marriage become true. Even now after the Civil Marriage Acts have come into force, I find people taking to this. I can find no reason why the same method cannot be adopted throughout and for all Hindus orthodox or otherwise.

Clause 33(f) makes reference to "adultery". I wish that the word "adultery" had not been used at all in the Code, for, as was pointed out by Swami Vivekananda, so long as there live three women in our land the chastity of India will be upheld. I do not think, Sir, that adultery is largely prevalent in any section of the Hindu society. There may, of course, be rare cases. But there is no reason why that should necessitate a statutory provision.

In sub-clause (2) of clause 9 and clause 16 I find penalties in regard to people breaking the law. The amount specified is too high, particularly for the poorer section of the people. I feel that it must be a very nominal amount. In the matter of judicial separation, it is all right in the case of people who have got money and can afford to go to the courts to get a dissolution. But what about the villages in which India abounds. Communal panchayats consisting of members chosen by a few people will decide the matter. I do not think this procedure is correct. I think some formula must be evolved which will lead to the constitution of representative panchayats which will decide cases of dissolution.

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Next I come to the question of *sthridhana*, that is what is given to the women either by her father or by her brothers. What is to happen if it is not properly used by the husband. I feel, Sir, that some clause must be inserted so that the *sthridhana* may always remain the property of the woman.

Clause 72 which deals with adoption says: "No adoption which has been validly made can be cancelled by the adoptive father or mother or any other person, nor can the adopted son renounce his status as such and return to the family of his birth." I think, Sir, if the son or anybody who is adopted were to misbehave and squander the money of the family there must be a saving clause whereby such a thing could be prevented.

Section 93 deals with the dowry to be held in trust for wife and says that it shall come into force after the commencement of this Code. I feel, Sir, that section must apply to all cases existing before the commencement of the Code.

Sir, I would finally point out that bringing this Hindu Code into force will greatly relieve all those women who are under the harsh treatment of men. Many people have been saying that the women are enjoying equal privileges and facilities. But in reality it is not so. In a few cases it may be so. But about 90 per cent of the women are still suffering from many social hardships. Out of the four *yugas*, *Krita*, *Treta*, *Drapara* and *Kali* we are now in the fourth *yugam*, iron age and are strong to bring in reforms. We must see that the women enjoy as many facilities as men. It is said that the hand that rocks the cradle shall win the world. Before they grasp forcibly these facilities let us give them peacefully. I, therefore, support the Hindu Code Bill that has been brought by this Government and when it has come into fruition I might say that my hon. friend Dr. Ambedkar who has taken so much of trouble would have added a further feather to his hat.

Shri O. V. Alagesan (Madras General): Sir, yesterday Dr. Ambedkar said that he was very glad that it had fallen to his lot to pilot this Bill. Sir, his name is sure to go down in history as the able midwife that assisted at the birth of the Constitution of Free India. Sir, he is ambitious. He wants to add a further feather to his cap and he is justified. His ambition is to supersede the ancient *rishis*, *Manu*, *Yajnavalkya* and a host of other ancient law givers.

One of the previous speakers—I think it is Mr. Pataskar—made a reference to Section 44 of the New Constitution which relates to a uniform civil code for the whole country. He pleaded and asked: "Why not withdraw this Hindu Code and have a Civil Code?" It may sound like pleading for postponing the day of mischief. But, why does not Government come out with a statement of policy on this question? Is this a first step in that direction? Would they bring in more measures to put into effect Article 44 of the Constitution, following this? I do not want to embarrass the Government, but all the same I would appreciate a clear statement of policy from the Government.

Sir, the other day it delighted everyone's heart to hear the hon. Mr. Santhanam pleading for monogamy. He challenged anybody to raise his little finger against this institution. Saint Tyagaraja admirably summed up Rama's character in his own inimitable manner in these words:

Oka mata, oka baram, oka pathni.

That is: One word, one arrow and one wife.

We are all glad that that ideal has been placed before us. Sir, I ask, is it good only for the Hindus? Will the Government bring forward a Bill common to all and make monogamy applicable to all citizens of India? I say this

not to embarrass Government, I would like to repeat. When it is put in this manner, you will have to put the problem in its proper bearing. You will remember that there is a community in India which will object to it on grounds of religion and you will also remember the unhappy happenings that followed the partition in this country. You will be saying that it will be an interference with religion, that it will be against the secular nature of the State. Now, the Prime Minister has declared that our State is going to be a secular one. We should educate the people on the secular nature of the State. There are many things that are happening on the other side of the border which are sure to have their reactions on this side. That State is based shamefacedly on a theocratic basis and they propose to carry the full implications of that policy, and such a policy on the other side cannot fail to have its reactions on this side. So, people begin to entertain misgivings about the secular nature of our State. They understand it in this light and there is good reason for that. That secularism means meddling with everything Hindu, and fighting shy of any other group. That is the way in which the general mass of the people in this country react to measures like this. So, in the interests of the secular State that we want to establish in this country, we should try to carry the people also with us. It is no good Government alone saying that we are a secular State, and if that is not properly understood, properly appreciated by the general mass of the people in the country, then the State cannot long continue to be secular. We will be losing the ideal that we want to realise in this country and we will be postponing the day of such realisation. That is why, Sir, I say that people are at present not in a proper mood. They are sullen. They are in a pique; just as a child which is in a pique refuses to eat even the sweetest thing. People are not in a mood to appreciate this reform, even though it may contain some good parts. So, the best thing would be not to press down the throats of the people anything which they do not want. Dr. Ambedkar last time quoted Burke. He struck a gloomy note and gave us a warning just as he did at the conclusion of his speech during the third reading of the Constitution. He said:

"Anybody who wants to conserve should be prepared to repair."

It is very good, Sir. We should be prepared to repair, but does this Bill represent mere repair? I should say it pulls down the house in which we have been living. It wants to plan a new structure. It wants to make structural alterations. It is not mere carrying out of repairs here and there. It is a structural repair. I should say that it is a new structure that it wants to put in the place of the old one.

The Honourable Dr. B. R. Ambedkar: All repair is structural repair.

Shri O. V. Alagesan: I have no objection to carry out even structural repairs, but before carrying out such structural repairs, this House itself should undergo a structural repair. That is what I want to say. By saying this, I do not minimise even by an iota the representative and sovereign character of this House. Sir, when we put through other legislation—Prof. Shah was labouring this point—nobody is surprised. It is a routine matter, but this is treated on a different basis. This is viewed with suspicion, with anger. That is the reason why I say we should discriminate, and allow the House that will have been structurally repaired to carry out this reform with greater confidence and with a degree of success which can be attained by then.

Sir, another point is the atmosphere in which this Bill is sought to be pushed through. Sir, there was a great one in this country who led our thought and action. Even though we were slaves, he taught us to think and act like free men and we followed him. That was the tradition that he established. Long before this country was technically free he ushered in an

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atmosphere of free thinking and action. But unfortunately he is no more with us to guide us, but his example is there for us to follow. Even on a matter like the abolition of untouchability, temple entry and such allied matters, he advised that we should not accomplish those worthy objectives by means of legislation. He persuaded and preached to the people the necessity for such measures. He even imposed suffering on himself. That is how he brought about this mighty reform and it has become an established fact today. It is that way that we should follow and not force down reforms upon the throats of unwilling people.

Shri V. I. Munishwamy Pillay: It is for you to educate them.

Shri O. V. Alagesan: We should go about the country and educate the people. The general elections are coming very shortly and that will be the best time for it.

Shrimati G. Durgabai (Madras: General): That is the whole fear.

Shri O. V. Alagesan: That will be a wonderful opportunity to educate the people on the various provisions contained in this Bill. There is much force in what the Congress President said yesterday. The Labour Government in Britain how does it function? It has postponed a very important measure, a Bill for which they took the permission of the electorate. It had the sanction of the electorate but after taking note of the situation in the country, they have postponed it till after the general election. They are going to take the verdict of the people afresh and then push through the measure. When such is the case in regard to a matter on which the permission, the sanction of the electorate had been obtained, then I should think it is much more necessary in this case where we did not give even an inkling of our ideas to the electorate. Sir, we have seen the spectacle of this Bill being debated for two days in every session. It is like the promise for renewing the gold bangles for the next *Deepavali*. That is how we have been going on and it is good that we go on like this because who knows even the sisters who have given their enthusiastic support to this Bill may change their minds tomorrow and they may try to improve it on their own lines. After all, one does not remain static, and more so woman.

Shrimati G. Durgabai: There are also some men who change their opinions.

Shri O. V. Alagesan: The great poet Valmiki who is the Adikavi of our country said this. The reference is only to the general characteristics of women. This does not apply to anybody in particular. Valmiki said:

Sathavradhamam lolathram

That is:

Women change as lightning.

That is what he said.

Similarly they can change their minds and try to improve. I should like to ask you and the House whether they have not gained by waiting so far. They have gained because in the Rau Committee recommendations the daughter had only half a share and now according to Dr. Ambedkar's Bill daughters will be getting equal shares with the sons.

Again, Sir, if they wait, they may get more. Daughters may get two times. Also we have heard on the first day the hon. Mr. A. K. Menon. The other day in a different place we heard Mr. Thanu Pillai. They are very anxious

about this and they feel that they are being pushed back instead of being pushed forward. While the rest of India is pushed forward, the Malabarites very strongly feel that they are being pushed backward under this Bill. Sir, they may convince others, and the whole land may come under Marumakkattayam, though the matriarchal system is disappearing elsewhere. Our friends from Malabar may be able to convince the other hon. Members of this House and then the whole thing may be Marumakkattayam and that will be a brighter prospect. They will not lose anything by waiting, because they have got persuasive powers; they can persuade, they can seduce, they can manage all these things.

Mr. Deputy-Speaker: The hon. Member need not use that expression.

Shri O. V. Alagesan: I am sorry. I withdraw the word.

We witnessed the wonderful spectacle in this House, Sir, of a speech which began as a wonderful satire and ended in a sorrowful sermon. Overnight the satire was converted into a sermon. So when we see this, nothing is impossible. It can be improved even according to the protagonists of this Bill in a very radical way and they may have a better Bill if they wait and then they can have the satisfaction of having taken the permission of the country also for that.

Sir, I should like to put another point of view. What is the approach that this Bill makes towards the problem? The approach is that inequality exists in the Hindu society between man and woman. I should very respectfully submit that this conception of inequality between man and woman is a biblical conception. The Hindu conception is that of *Ardhanareeswara*, that is, of man and woman being equal. That is our conception. Sir, that is the basic Hindu conception. I do not say that it has been entirely translated into practice and I do not make that claim, but that is the basic conception of Hinduism. The conception is not one of inequality, but it is one of dissimilarity. If man represents strength, woman represents endurance; if man represents intellect, woman represents enlightenment; if man represents grammar, woman represents poetry. The great poet Kalidasa has described Parvati and Parameshwara as word and meaning and that is the basic approach. You do a basic wrong when you approach this question, from the point of inequality between man and woman.

Again, Sir, I should like to point out that the present atmosphere is not a free atmosphere because we have never examined our institutions as an independent nation, especially on this subject. It is not Yagnavalkya or Manu that is so much current as the British courts and we have never had an opportunity to examine our Indian institutions with a dispassionate and an unbiased open mind. Always the bias of western ideas and western notions had been there. Though our political slavery might have been removed, still the spell of western civilization and ideas continues. So, it is better if some time elapses and we may be able to view and examine both the good and bad points in our institutions in an independent way, in a fresh way and that will give us an opportunity to mend this Bill and even improve.

Sir, another reason behind this Bill is a sense of injustice done by man to woman. I do not want to repeat all the things that have been said before both in humour and seriousness, but, Sir, I can claim that there has been no injustice done to woman by man. I should like to say that it is only a mental aberration of high-strung natures due to unattached circumstances which enable one to do anything except lead a normal life. That is how I would not do it. In this land, nothing has been done by man to wrong woman. I should like to examine some of the arguments put forward by the other side. Sir, I find a growing practice among the occupants of the Treasury Benches. When a

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Bill is generally debated, they say some people have opposed and others have supported and hence this Bill represents the largest common measure of agreement. That is a very easy way of disposing—and I do not think the learned Minister in charge of this Bill will do it and I have no doubt about it. It is not the largest common measure, but the least common measure, I would say.

Then, Sir, it is said that opposition to this Bill is based on prejudice and sentiment and not on reason. I should like to point out that support is also based on the same blindness, on the same prejudice and on the same unreason. It is not as if support is enlightened and only opposition is ignorant.

Again, Sir, it is said in support of this measure that this is only an enabling and permissive measure. It was said in another place that the orthodox can go on in the old way without interference and the reformers also may go their own way or it permits such of those who want to take advantage of the provisions of the Bill to tread their path and leave others entirely free to pursue their own path. I think Dr. Ambedkar said it. Sir, this is like enacting a general law of licence and saying that such of those who want to take advantage of it can do so. The plea that it is only a permissive and an enabling measure, in my opinion cannot hold water. Then it is said that there has been opposition in the past to Bills of similar nature like the Sarda Act. This stands on an entirely different footing. There is difference between that Act and this Bill.

Dr. Tek Chand was saying that this Bill has been before the country for a very long time and so we need not wait any more. It is true that the Bill has been before the country for a number of years. But then the Congress was not in office and so nobody took it seriously. As soon as the Congress came into office and Dr. Ambedkar piloted this Bill as a Minister of the Congress Party, then everybody took it seriously, and they now know that it will be put into force, and that is why I say the people should be given an opportunity to examine this Bill. There is difference between the position that it occupied so far and the position that it occupies now.

Sir, It is also said that many women who are opposed to this Bill do so under the influence of their men-folk. This, I think, is an unfounded charge. May I ask whether the women who support this Bill are displeased with their husbands? Or, may I ask whether the men who support this Bill do so under the influence of their womenfolk? It is no use putting forth such frivolous arguments.

Shri B. Das: There is nobody here to answer these questions.

Shrimati G. Durgabai: Can you say that they are pleased with their husbands when they marry again and again?

Shri O. V. Alagesan: I am coming to that Madam, please have a little patience.

Shrimati G. Durgabai: Please answer that question first.

Shri O. V. Alagesan: Yes, I will, in my own time and in my own way.

Pandit Govind Malaviya: May I know till what time we intend sitting?

Some Honourable Members: Six o'clock.

Some Honourable Members: Seven o'clock.

Mr. Deputy-Speaker: I am finding the House getting thinner and thinner, and when it is quite thin, I will get up.

Sjt. Rohini Kumar Chaudhuri: Let us rise for tea, now Sir.

Mr. Deputy-Speaker: No, the hon. Member will finish soon.

Shri O. V. Alagesan: Sir, the justification for a measure of this kind can be two-fold. There should be a conscious demand from the public for such a measure; or a few people, who have set their hearts upon a measure of reform, may think that it is good for the entire community, while the community may not be conscious of the goodness of it. Then it is the duty of those, who think that such a measure of reform is beneficial to the whole community, to go and educate the people about the soundness of their stand. I only plead that the people who bring forward this measure and who believe that this is a measure beneficial to Hindu society, that they should go and educate the people. I do not want anything more from the protagonists of this Bill.

Shrimati G. Durgabai: They have done it.

Shri O. V. Alagesan: My sister here says that they have done it already. But I should like to point out that the claim made by these reformer friends, this microscopic minority, that may speak on behalf of the majority of the Hindus, is the tallest claim ever made. They should have patience, and as I have pointed out earlier, they should educate the people about the goodness of this Bill, and not rush it through to have some satisfaction.

Another important thing I wish to point out is this. If this Bill is rushed and passed into an Act, then portions of it will remain a dead letter just as the widow remarriage Act has remained a dead letter though enacted a century ago. So if you do not want it to remain a dead letter, but that it should be taken advantage of by the members of the community, then it is better to wait and educate the people.

Now I would like to pass on to a few of the important observations made by Dr. Ambedkar. This Bill seems to be a Law of Exceptions. Dr. Ambedkar said that the coparcenary system allows ten categories of property to remain outside the purview of the coparcenary. They form private property. So he says, because it has granted so many exceptions, let it, once and for all, go. That is one of the points that he has made. And then he says, woman has absolute right to *Stridhana* and so let it be so for all property. And also that this coparcenary system has the seeds of disruption in itself, and so let the joint family go. I would ask him; he has just now passed the Constitution and the various provisions in the Constitution, as you know, are riddled with provisos and exceptions. For that reason, are we to make the exceptions into the main articles? When you look into the pleadings, it looks as if one has to make the exceptions into the main law.

Then again, Sir, this Bill about which my sisters are so enamoured.....

Shrimati G. Durgabai: Brothers also.

Shri O. V. Alagesan: This Bill does not, in my opinion, deserve it. Monogamy has been praised by one and all. It is not such a new institution. Women have been having monogamy in this land, but were there divorces provided? As soon as men are brought, within this law of monogamy there is demand for provision for divorce. As long as woman was under monogamy, there was no provision for divorce, but now they say divorce is the natural corollary of monogamy. Why are my sisters so very enthusiastic about it? What is the meaning of it? If divorce is the natural corollary of monogamy how is it that this natural corollary did not come into existence so far?

Mr. Deputy-Speaker: How long further will the hon. Member go on?

Shri O. V. Alagesan: Only ten more minutes, but I shall try to cut short. So I say it is not a very pleasant thing to be given the right to divorce. I do not want to read out extracts, but many women have pointed out that this divorce would work greater havoc for women than for men.

Shri A. Thanu Pillai: Is the hon. Member advocating monogamy without divorce?

Shri O. V. Alagesan: I want monogamy without provision for divorce. Sir, what this Bill gives with one hand it takes away by the other.

Dr. Ambedkar, in justifying the provision for divorce, has enumerated the difficulties that the women who are deserted by their husbands nowadays are made to undergo. All these difficulties the divorced women will have to undergo. The prospect for the divorced woman is as bleak as the prospect is today for the deserted woman. It is easier for the divorced man to marry again and it will not be as easy for the divorced woman.

Dr. P. Subbarayan (Madras: General): So you want a double standard.

Shri O. V. Alagesan: I want my sisters to make note of it and beware of the pit to which it leads them.

Even on other grounds I would very seriously object to the provision of divorce. What is the experience of other countries? This has been touched on by other speakers and I do not want to enlarge on it. Recently we were told that the number of divorce cases in Paris alone increased from 600 to 1200, which is only 100 per cent. increase.

An Honourable Member: There is no Paris in India.

Shri O. V. Alagesan: I am glad there is no Paris in India just now but I am afraid the Bill tries to usher in Paris in India.

Shri L. Krishnaswami Bharathi: Baroda is there and Malabar is there.

Shri O. V. Alagesan: In one of the most advanced countries in the world, Soviet Russia, the family as an institution is breaking up. Soviet Russia is hard put to resuscitating the family as an institution, having allowed easy divorce. They now want to inculcate the sacredness of the family as an institution and infuse communist morality into their citizens. They are trying hard to save this institution which they have lost by lightly introducing divorce in their land. One had only to write a postcard to the Registrar saying that he is divorcing his wife and he had his divorce. I understand that they have now made their divorce laws more difficult. There is an example before us.

Shri L. Krishnaswami Bharathi: What about Malabar? Why go to Russia and Paris?

Shri O. V. Alagesan: There they have tried this method and found it dangerous. Why put ourselves in the same situation and again try to remove it? Our Indian homes today are poor, steeped in ignorance and ill-health, but it cannot be said that our homes are broken ones. In other countries they may be rich, healthy and very enlightened but one is sorry to note that many of the homes in other countries are broken ones and that is entirely due to the license given in their divorce provisions. That is my opinion.

Such an eminent person like Dr. Tek Chand said that the joint Hindu family should be kept and wife be made a coparcener in the family. I should like to say that the real economic independence of women would come not by giving a share to the daughter, to which I have no objection, but by giving her an equal share in the husband's property. That is how she will attain her

economic independence. It is not by taking a share from the father's property. After all the daughter is a trust to be given away to the son-in-law. The father keeps the girl as a trust and it is therefore better and more proper that she is made a joint owner or equal sharer in the husband's property rather than made to claim a share in the father's property. She may claim a share in the father's property if she remains unmarried.

I do not want to dilate further but I should like to end on this note. The chief man who conceived the Code (though a gentleman found it difficult to conceive yesterday) was Mr. B. N. Rau and we may be sure that he is very anxious about this Bill. He would want to see all his proposals, though in a modified form, to be put into effect as early as possible and I should like to read his opinion, which has also been the opinion of the Hindu Law Committee.....

Shrimati G. Durgabai: There was a select committee to consider those proposals; not he alone.

Shri O. V. Alagesan: The Hindu Law Committee has stated as follows:

"The aim should be as far as possible to arrive at agreed solutions and to avoid anything likely to arouse acrimonious controversy. This need not mean any real slowing down of the pace of reform, for true reform proceeds by persuasion rather than coercion."

Sir, I have done.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Thursday, the 15th December, 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Thursday, 15th December, 1949

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-45 A.M.

INSURANCE (AMENDMENT) BILL

EXTENSION OF TIME FOR PRESENTATION OF REPORT OF SELECT COMMITTEE

The Honourable Shri K. C. Neogy (Minister of Commerce): I beg to move:

"That the time appointed for the presentation of the Report of the Select Committee on the Bill further to amend the Insurance Act, 1938, be extended up to the last day of the second week of the Budget session, 1950."

Mr. Deputy-Speaker: The question is:

"That the time appointed for the presentation of the Report of the Select Committee on the Bill further to amend the Insurance Act, 1938, be extended up to the last day of the second week of the Budget session, 1950."

The motion was adopted.

PAPERS LAID ON THE TABLE

DECLARATIONS OF EXEMPTION UNDER REGISTRATION OF FOREIGNERS ACT, 1939.

The Honourable Shri Satyanarayan Sinha (Minister of State for Parliamentary Affairs): I beg to lay on the Table a copy of each of the following Declarations of Exemption issued under the Registration of Foreigners Act, 1939, namely:

- (1) No. 1/31/48-F.I., dated the 10th February, 1949.
- (2) No. 1/9/49-F.I., dated the 25th February, 1949. (13 Declarations).
- (3) No. 1/9/49-F.I., dated the 1st March, 1949. (12 Declarations).
- (4) No. 1/2/49-F.I., dated the 3rd March, 1949. (30 Declarations).
- (5) No. 1/9/49-F.I., dated the 16th March, 1949. (2 Declarations).
- (6) No. 1/17/49-F.I., dated the 21st March, 1949. (2 Declarations).
- (7) No. 1/18/49-F.I., dated the 22nd March, 1949.
- (8) No. 1/13/49-F.I., dated the 23rd March, 1949.
- (9) No. 1/16/49-F.I., dated the 31st March, 1949.

[Shri Satyanarayan Sinha]

- (10) No. 1/23/49-F.I., dated the 9th April, 1949. (2 Declarations).
- (11) No. 1/25/49-F.I., dated the 20th April, 1949. (2 Declarations).
- (12) No. 1/20/49-F.I., dated the 22nd April, 1949.
- (13) No. 17/202/49-F.II., dated the 29th July, 1949. (2 Declarations).
- (14) No. 1/29/49-F.I., dated the 30th July, 1949.
- (15) No. 1/31/49-F.I., dated the 20th August, 1949.
- (16) No. 1/31/49-F.I., dated the 25th August, 1949. (2 Declarations).
- (17) No. 1/31/48-F.I., dated the 29th August, 1949.
- (18) No. 1/34/49-F.I., dated the 11th September, 1949.
- (19) No. 1/2/49-F.I., dated the 8th October, 1949. (2 Declarations).
- (20) No. 1/38/49-F.I., dated the 19th October, 1949.
- (21) No. 1/39/49-F.I., dated the 22nd October, 1949.
- (22) No. 1/41/49-F.I., dated the 27th October, 1949. (5 Declarations).
- (23) No. 1/42/49-F.I., dated the 9th November, 1949. (5 Declarations).
- (24) No. 1/43/49-F.I., dated the 9th November, 1949. (3 Declarations).
- (25) No. 1/45/49-F.I., dated the 12th November, 1949.

(Placed in the Library. See No. P-40/49.)

(i) MERGED STATES (TAXATION CONCESSIONS) ORDER, 1949.

(ii) TAXATION LAWS (MERGED STATES) (REMOVAL OF DIFFICULTIES) ORDER, 1949

The Honourable Dr. John Matthai (Minister of Finance): Sir, I lay on the Table a copy of each of the following papers, namely:

- (i) The Merged States (Taxation Concessions) Order, 1949, issued under section 60A of the Income-tax Act, 1922 and section 23A of the Business Profits Tax Act, 1947; and
- (ii) The Taxation Laws (Merged States) (Removal of Difficulties) Order, 1949, issued under section 8 of the Taxation Laws (Extension to Merged States) Ordinance, 1949.

(Placed in the Library. See No. P-41/49.)

MERGED STATES (LAWS) BILL.

The Honourable Dr. B. R. Ambedkar (Minister of Law): Sir, I move:

"That the Bill to extend certain laws to certain areas administered as parts of Governor's Provinces or as Chief Commissioners' Provinces, be taken into consideration."

Sir, this is a very short Bill, and I believe that it is a non-controversial measure. As Members of the House will remember, before August, 1948, there were certain States which were independent of what might be called British India, in the sense that they had their own laws and were not subject to the legislative authority of the Central Government nor of a Provincial Government. That situation is now completely altered. Some of the States which were independent have now become part of India. Some of them have been merged in the neighbouring provinces and have become parts of those provinces. Some of them have been created into Chief Commissioner's Provinces and are administered directly. It follows, therefore that if these States have now merged into the provinces or have become Chief Commissioners' Provinces, it is necessary that the laws made by the Central Government which operate throughout India must also apply to the States which have become merged. It is the purpose of this Bill to give effect to that principle. The Statement of Objects and Reasons give further details with

regard to this Bill, and hon. Members who have read that will, I am sure, not require any further remarks from me to elucidate the provisions contained in this Bill.

Mr. Deputy-Speaker: The question is:

"That the Bill to extend certain laws to certain areas administered as parts of Governor's Provinces or as Chief Commissioners' Provinces, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

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

(i) "That in sub-clause (2) of clause 3 of the Bill, for the words 'together with' the words 'as a part of' be substituted."

(ii) "That in sub-clause (3) of clause 3 of the Bill, for the words 'together with' the words 'as a part of' be substituted."

Sir, these two amendments are acceptable to the hon. the Law Minister, because he has tabled similar amendments. I also move:

(iii) "That in sub-clause (3) of clause 3 of the Bill, for all the words occurring after the words 'subject to', occurring in line 6, the words 'such amendments' be substituted."

As regards the third amendment, all the words occurring after the words "subject to", in line 6, are "so much of the said amendments as relate to matters with respect to which the Dominion Legislature has power to make laws for a Governor's Province" and these are redundant, for in sub-clause (2) the same thing is given, it says:

"So much of any of the Acts, Ordinances and Regulation specified in the Schedule as extends to any absorbing Province and relates to matters with respect to which the Dominion Legislature has power to make laws for a Governor's Province is hereby extended to, and shall be in force in etc., etc."

Therefore, these words occurring in the latter part of sub-clause (3) are redundant and the words "such amendments" would be quite sufficient. So I move these amendments.

The Honourable Dr. B. R. Ambedkar: I have my own amendments.

Mr. Deputy-Speaker: I shall put these amendments, and then I shall come to yours.

The Honourable Dr. B. R. Ambedkar: As regards the first two amendments, I think the proper language should be "as part of" and not "as a part of" and with this change, I have no objection to accepting the amendments. If the Mover is not prepared to accept this change, then I shall have to move my own amendment.

Shri S. V. Krishnamoorthy Rao: I agree to drop the "a".

The Honourable Dr. B. R. Ambedkar: Regarding the other amendment I do not accept that the words are redundant.

Shri S. V. Krishnamoorthy Rao: I do not press the third amendment.

Mr. Deputy-Speaker: Then I will put the other amendments. The question is:

"That in sub-clause (2) of clause (3) of the Bill, for the words 'together with' the words 'as part of' be substituted."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That in sub-clause (3) of clause 3 of the Bill, for the words 'together with' the words 'as part of' be substituted."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 3, as amended, stand part of the Bill."

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Shri S. V. Krishnamoorthy Rao: From my amendment to clause 4 also, with your permission, I wish to drop the "a". Sir, I move:

"That in part (d) of clause 4 of the Bill, for the words 'together with' the words 'as part of' be substituted."

The Honourable Dr. B. R. Ambedkar: I am willing to accept it.

Mr. Deputy-Speaker: The question is:

"That in part (d) of clause 4 of the Bill, for the words 'together with' the words 'as part of' be substituted."

The motion was adopted.

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.

Clause 5 was added to the Bill.

Shri S. V. Krishnamoorthy Rao: Sir, I move:

"That in part (b) of sub-clause (1) of clause 6 of the Bill, for the word 'incurred' the word 'imposed' be substituted."

"Imposed" and not "incurred" is the correct word. Part (b) reads:

"any penalty, forfeiture or punishment incurred in respect of any offence committed against any such law, or."

In the latter part of the clause the word "imposed" is used in the Bill:

"any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed."

"Imposed" will be the correct word, because the court imposes forfeiture, punishment or penalty.

The Honourable Dr. B. R. Ambedkar: Sir, I have examined this matter. I may say that at one time before I examined the matter, I thought that the amendment could be accepted but I now find that clause 6 has been drafted in perfect accord with the provisions contained in the General Clauses Act, section 6, and I am not prepared to depart from the language of that clause. I therefore cannot accept the amendment.

Shri S. V. Krishnamoorthy Rao: I do not press my amendment.

Mr. Deputy-Speaker: The question is:

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Shri S. V. Krishnamoorthy Rao: Sir, clause 7 reads at the end:

"any Court or other authority may construe any such Act, Ordinance, or Regulation with such alterations, not affecting the substance, as may be necessary or proper to adapt it to the matter before the Court or other authority."

Here power is given to a magistrate's court or any authority to construe the laws specified under this Bill. This would give rise to conflict of opinion and it would be better if this power is vested in a central authority like the High Court which has jurisdiction over those areas. A large number of states have merged in the provinces and there are any number of inferior courts like the magistrate's courts which may give different interpretations to the same clause of an Act in the same area. That is why I have tabled an amendment that this power may be given to the High Courts which have jurisdiction over those areas. I do not know if it would be acceptable to the hon. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar: Sir, this clause and the wording of it is covered fully by precedents. There are in our legislation two Acts which deal with a matter of this sort. One is Act VII of 1912 called the Bengal, Bihar, Orissa and Assam Laws Act. The other is the India Adaptation of Existing Indian Laws Order, 1947, passed after the Indian Independence Act. This clause has been bodily taken from these two laws and therefore it cannot be said that we are in any sense departing from previous provisions which deal with matters of the sort dealt with in clause 7.

My friend will realise that there is no necessity for introducing the sort of provision which he wants to introduce by his amendment, namely a sort of reference by the trial court to the High Court for resolving of differences, for the simple reason that if he reads clause 7 carefully he will see that the adaptation which a trial court is empowered to make is merely of a formal character. They are not to affect the substance, as the clause itself says. In other words the adaptations will be merely of a formal character; where the word "province" occurs it will mean the 'state' or where the word 'state' occurs it will be the 'province'. There is no matter of substance involved. Consequently there is no necessity for resorting to the kind of provision which my friend wants to incorporate in clause 7. It is not a question of dissolution of difficulties.

Shri S. V. Krishnamoorthy Rao: The words used are "construe any such Act".

The Honourable Dr. B. R. Ambedkar: If my friend wants I can read the exact wording of the Act to which I referred.

Clause 5 of the Bengal, Bihar and Orissa and Assam Laws Act reads:

"For the purpose of facilitating the application to the territory, or any part thereof, mentioned in Schedule A, Schedule B or Schedule C of any enactment passed before the commencement of this Act, or of any notification, order, scheme, rule, form or by-law made under any such enactment,—

(a) any court, may, subject to the other provisions of this Act, construe the enactment, notification, order, scheme, rule, form or by-law with such alterations, not affecting the substance, as may be necessary or proper to adapt it to the matter before the Court;"

"not affecting the substance" these are the important words.

Mr. Deputy-Speaker: I have received notice of an amendment from Mr. V. S. Sarwate, which has been received late. I am prepared to waive the objection to the late notice if the hon. Minister is prepared to accept the amendment. The amendment reads:

"That in clause 7 of the Bill, the words 'or other authority' occurring in line 4 be omitted."

The Honourable Dr. B. R. Ambedkar: It will be necessary that that authority should also be empowered to do the work of adaptation.

Shri V. S. Sarwate (Madhya Bharat): Sir, not only are the courts empowered to apply the laws with certain modifications which they consider necessary but authority is also given to other officials, including the executive authorities. There are I believe over one hundred laws which are at once made applicable to the merged areas and it is possible and conceivable that there may be cases in which the executive authorities would have to apply these laws. If they are given this power to make alterations in applying the laws it would be certainly dangerous in the interests of the general public. As the hon. Member must be knowing it is very difficult to make a distinction between an alteration of substance and that of a formal character: it is a very fine distinction. An authority so minded may under this cover make an amendment which it may allege to be formal and not substantial.

Further I beg to point out that executive authorities are empowered to construe the law. Construction of law is left to a court. The Act which the hon. Minister just read only gives power to the courts and not to any other authority. So that strengthens my case, if I have heard him correctly. The words "any Court or other authority may construe any such Act, Ordinance, or regulation" may include any official, even a *patwari* or a *munsarim* or all the executive officers. I would appeal to the Mover to consider whether it is necessary to give this power to "any authority". The only danger if these words are omitted will be that in some cases there may be difficulty, there may be deadlock and the authority may not be able to proceed. In that case they can refer to the court. It is better to be cautious in such respects instead of investing the lowest authority with such powers. It is better to have some deadlocks and difficulties created rather than to give them such powers, which in the present case amounts simply to giving all these powers to the executive.

The Honourable Dr. B. R. Ambedkar: I am sorry that I read only sub-clause (a) of the Bihar Act. There is also a sub-clause (b) which I did not read because I did not know that there was this amendment. That also confers power upon any authority. Similarly our own India (Adaptation of Existing Indian Laws) Order—Section 10—says that "any court, tribunal or authority required or empowered to enforce an existing Indian law" may do what we propose to be done under clause 7 of the Bill. My friend must remember that these Acts have not only to be interpreted and construed by courts but have also to be administered by executive officers. That being so, the power of making formal adaptations may not only be given to courts but to officers who have to administer them. I do not therefore see why we should accept the amendment moved by my friend which seeks to delete the words "or other authority" from clause 7.

Mr. Deputy-Speaker: For instance, in respect of the Census Act of 1948, the Coal Mines Provident Fund and Bonus Schemes Act it is not merely the courts but also the authorities administering them. They have also to construe them. It is not a different authority. The authority administering it has to adapt it.

But my own difficulty was this. If one court construes it in a particular manner and the appellate court does it differently, what will happen?

MERGED STATES (LAWS) BILL

The Honourable Dr. B. R. Ambedkar: They will have the right to reconsider it. But that is only a formal thing.

Shri V. S. Sarwate: My amendment should be put to vote.

Mr. Deputy-Speaker: I rule it out. It came very late. I was prepared to admit it in spite of the inadequate notice if it was acceptable. But the hon. Minister has said sufficient about the matter. And there is no matter of substance in the amendment.

Sjt. Rohini Kumar Chaudhuri (Assam: General): I would like to make an enquiry in regard to this matter. Under clause 3 of this Bill "the Acts, Ordinances and Regulation specified in the Schedule are hereby extended to, and shall be in force in, all the new Provinces" and "So much of any of the Acts, Ordinances and Regulation specified in the Schedule as extends to any absorbing Province...is hereby extended to, and shall be in force in, all the merged States..." Now, in this Schedule there is mention of the Code of Criminal Procedure, and I do not find any saving in this regard under clause 6. I would only like to draw the attention of the hon. Minister to the fact that under the new Constitution we are going to have Autonomous Councils, and in the areas which are administered by Autonomous Councils there will also be States—for instance the Kasi State will be included in that manner. Under the provisions of the Sixth Schedule of the Constitution the Criminal Procedure Code will not be in force in the Autonomous Districts. But by virtue of the provisions of clause 3 of this Bill the Criminal Procedure Code will apply to the States which are merged in the province of Assam. So, my enquiry is if the States are in the province of Assam and at the same time they are guided by the Sixth Schedule of the Constitution, whether the Criminal Procedure Code will not be in force as under the Constitution or will be in force as provided for in clause 3 of this Bill, in the Schedule to which the Code of Criminal Procedure figures as an item.

The Honourable Dr. B. R. Ambedkar: The answer is very simple. Whatever the Indian Legislature does must be subject to the provisions of the Constitution. If the Constitution says that the Criminal Procedure Code shall not be in operation, then notwithstanding anything that the Indian Legislature does, to the extent that it is in contravention of the provisions of the Constitution it shall stand abrogated.

Mr. Deputy-Speaker: The question is:

"That clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That in the Schedule to the Bill, the following entries be omitted, namely:

(a) '1947 X. The Explosives (Temporary Provisions) Act, 1947'.

(b) '1949 XXVIII. The Industrial Disputes (Banking and Insurance Companies) Second Ordinance, 1948'."

These laws have exhausted themselves. Therefore there is no necessity to include them in the Schedule.

Mr. Deputy-Speaker: The question is:

"That in the Schedule to the Bill, the following entries be omitted, namely:

- (a) '1947 X. The Explosives (Temporary Provisions) Act, 1947'.
- (b) '1949 XXVIII. The Industrial Disputes (Banking and Insurance Companies) Second Ordinance, 1949'."

The motion was adopted.

The Honourable Dr. B. R. Ambedkar: Sir, with your permission I would like to move one more amendment to the Schedule. I move:

"That in the Schedule to the Bill, the following entry be inserted in the appropriate place, namely:

'1927 XVI. The Indian Forest Act, 1927'."

The reason why this Act was not included in the Schedule was that this Act, although enacted by the Central Legislature, does not apply to all the Provinces. Consequently it was felt that there was no necessity to include it in the Schedule which specifies the Acts that apply to the whole of India. But it was subsequently felt that even though the application of the Act is restricted to certain Provinces, its extension may be necessary and consequently I am moving this amendment.

Mr. Deputy-Speaker: Amendment moved:

"That in the Schedule to the Bill, the following entry be inserted in the appropriate place, namely:

'1927 XVI. The Indian Forest Act, 1927'."

Sardar Hukam Singh (East Punjab: Sikh): Who is to say which the appropriate place will be?

The Honourable Dr. B. R. Ambedkar: My friend will see that the Acts are arranged in accordance with the years in which they were passed. This was in 1927. Consequently its appropriate place would be in that numerical order, under those Acts which were passed in 1927. That is why the words "in the appropriate place" have been mentioned.

Mr. Deputy-Speaker: If the hon. Minister would kindly refer to page 6 of the Bill, there is only one item under 1927.

The Honourable Dr. B. R. Ambedkar: Sir, I thought the rest could be done by the draftsman.

Mr. Deputy-Speaker: The question is:

"That in the Schedule to the Bill, the following entry be inserted in the appropriate place, namely:

'1927 XVI. The Indian Forest Act, 1927'."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That the Schedule, as amended, stand part of the Bill."

The motion was adopted.

The Schedule, as amended, was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

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

Mr. Deputy-Speaker: Motion moved:

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

Shri Kishorimohan Tripathi (C.P. and Berar States): Sir, on behalf of the merged States of C.P., I accord my fullest support to this measure which carries the process of merger a step further. Though most of these Acts were already prevailing in the States, the people, however, will watch whether during the process of administering these Acts in these States the tone of administration there improves or not. I hope that with these Acts applied the tone of administration in general will improve and justice and security shall be brought home to the people of the merged States.

Shri Sarangdhar Das (Orissa States): Sir, I fully support this Bill, but there is one thing that has been worrying me and that is that in the merged States, particularly of Orissa and C.P. and Berar, there is a system of monopoly; monopoly for hides, skins and bones, monopoly for *kendu* leaves out of which *biris* are made—a large and flourishing industry—and monopoly for other articles like tamarind which is grown in the backyard of tenants' own holdings, and lac which is cultivated by tribal people on certain trees. In all these things the monopoly used to be auctioned by the *Rajahs* to the highest bidders whereby the other traders are discriminated against and are prevented from trading in that commodity. I believe that is why perhaps in the areas administered by the British, all over the British Empire, the monopoly system was abolished. It is considered to be a very pernicious system. But our Rulers in the Indian States had all kinds of things that existed in feudal ages and with the help of the British Government who were propping them up, these monopolies were going on.

When the States were integrated in January 1948, I had fully hoped, and many of my friends who had worked in these States in the political movement had hoped and assured the people, that as soon as the States were amalgamated with the Provinces the monopolies would go. I had personally requested the Premiers that they should announce that the monopolies are no longer there. But I have noticed during the last one year that the Governments of C.P. and of Orissa are perpetuating this monopoly system. I don't lay so much stress on the discrimination that is made thereby against other traders, but I have seen that this is a great hardship for the primary producers of those commodities. Because there is a monopolist, the primary producer cannot sell his produce anywhere else or take them out of that area. And the monopolist dictates the price. For instance, a piece of cow-hide well-dried and salted, is paid for by the monopolist at about two or four annas, while that same piece, if it crosses the border and goes to a district of the Province, can fetch Rs. 2. So, also with the *kendu* leaves out of which *biris* are made. An old woman picking these leaves all day long may be getting eight or twelve annas a day in the Sambalpur District in Orissa while in the States of Sonpur, Patna and others around Sambalpur District she gets only one and a half annas or two annas. My plea is on behalf of the poor primary producers. There is no doubt that the States used to get revenue out of that, and now the Province of Orissa having taken over these twenty-four States, I understand, gets a revenue of somewhere about Rs. 40 lakhs from *kendu* leaves alone. It will be certainly a loss of revenue for the Province, but I look at it from the viewpoint of the welfare of and equity for the primary producers who are very, very poor people; they are landless people and eke out a little living in spring

[Shri Sarangdhar Das].

and summer time out of picking *kendu* leaves. There is the Provincial Government now which takes Rs. 40 lakhs and the merchants who with a flourishing trade in *kendu* leaves get somewhere about a crore. Now, all this money of nearly Rs. 1½ crores is mulcted out of these ignorant, poor people. I don't believe that any Government that cares for the welfare of the people would accept such an idea that the poor people should be fleeced in order to fill the coffers of the Provincial exchequer.

So, I wish to know if, with the application of these laws to the merged States, the monopoly system would go, I understand that by their application the administration of justice and everything else will be of the same order in these merged States as in the Province, so I wish to know from the law Minister, if along with the introduction of these laws, this monopoly system will go from the States. If it does not go, if these laws still permit monopoly to remain, I myself will see to it that this system goes.

Shri Raj Bahadur (United State of Rajasthan): Sir, while welcoming the measure before the House, I have simply to submit that so far as the question of the merged States is concerned the process of unification becomes more or less complete by the enactment of this measure. I would refer to the States which have formed or integrated themselves into Unions. I perfectly realise that so long as the Government of India Act is in force the power of the Central Legislature does not extend over the States Unions and therefore all these laws cannot be extended to such Unions. But I may respectfully point out that a similar type of legislative measure would be necessary for those States also which have now integrated into Unions.

At the present time, we find that the Civil Procedure Code, the Criminal Procedure Code, the Indian Evidence Act, the Registration Act, the Stamp Act and various other enactments which have been, from time to time, adopted by the Central Legislature and which have been in force throughout the country are not in many States applicable as such. There are different analogous enactments in different States and these Unions. For example, Jaipur has got its own Civil Procedure Code and Criminal Procedure Code. There are many other Acts which vary from State to State. I wish simply to point out that we eagerly await the day when the process of unification of laws would be extended to such Unions and States. We are aiming at the unity of the nation. It is an accepted truth that the unity of the nation cannot be achieved without the unification of laws and the unification of laws and the advantages resulting therefrom must also be provided to the people who reside in the States Unions, so that the great anomalies and the great confusion that prevails at present in some of these States may be obviated.

Another point which I want to lay stress upon here is that in some cases local customs and local usages have shaped the form and structure of various local enactments. I do not know what sort of administrative shock will be felt by these merged States and the social set up in such States when such enactments are repealed by the present measure. Some of the local enactments were very beneficial to the society, but I perfectly realise that for the greatest good of the greatest number and for the purpose of unification and solidarity of the nation, perhaps those small advantages may have to be given up. With these words and with the hope that soon after the coming into force of the new Constitution, a similar measure would be taken in respect of the States which have integrated in the form of States Unions, I welcome this Bill.

The Honourable Dr. B. R. Ambedkar: With regard to the point raised by my hon. Friend from Orissa, I would like to say that in so far as the laws enacted by the Centre which are made applicable by the present measure to the merged States is concerned, I do not think that he need have any fear because I do not remember and do not think that any of the measures enacted by the Centre which are made applicable to the merged States recognise any kind of monopoly or any kind of the evils to which he has made any reference. Therefore, if there are any evils such as he has described, they probably have their root in the laws which are at present in operation in the merged States. In regard to that, I should like to say that it is hoped that each province which has absorbed some of the States which are designated here as "merged States" will have similar legislation to the one that we have now on the anvil here today. If the provinces also pass laws extending their laws to the merged States, I am sure that the evils to which he has referred will disappear, because the provincial laws, so far as I am aware, also do not recognise any monopoly or any of the evils to which he has referred. All that I can do is to give him the assurance that the Government of India do hope and do intend to suggest to the provinces that they should also pass similar laws extending the laws prevalent in the British Indian part of the Indian provinces to the merged parts of the provinces, with the result that all these distinctions between one part and the other part in the same province will vanish. I do not think I need say anything more to remove his apprehensions in this matter.

Shri Raj Bahadur: What about the States Unions?

The Honourable Dr. B. R. Ambedkar: With regard to that my friend will appreciate that at the present moment the authority of the Centre over these States is of a very limited character. It is bounded and limited by the Instruments of Accession. The fullest authority which we intend that the Centre should have over all the States in a uniform manner will accrue to the Centre from the 26th January, 1950 when the Constitution will come into operation, with the result that either some of the Acts will automatically apply to the Indian States which will now become units of the Centre, or if that does not happen, the Centre will take good care to see that they are extended to them.

Mr. Deputy-Speaker: The question is:

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

The motion was adopted.

ABDUCTED PERSONS (RECOVERY AND RESTORATION) BILL

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

"That the Bill to provide, in pursuance of an agreement with Pakistan, for the recovery and restoration of abducted persons, be taken into consideration."

The Bill is a short one. It is also a simple, straightforward and if I may use the word, an innocent one and I trust the House will have no difficulty in passing it today. I say it is a simple and straightforward measure in spite of the fact that notice has been given of a large number of amendments, but as I proceed the House will be able to see that except with regard to some of the amendments which I propose to accept, the rest of the provisions of the Bill will be fairly easy-sailing.

[Shri N. Gopalaswami Ayyangar]

The House is fully aware of what has been done in regard to the recovery of abducted persons practically ever since the partition of the country was implemented. It is one of those sorry experiences that we have had to go through in connection with the partition of the country that both for a few months prior to the 15th of August, 1947 and for several months afterwards, things happened in this country—by this country, I mean the sub-continent of India on both sides of the border—in regard to which most of us will have to hang our heads down in shame. I say this deliberately, because among the many brutalities and outrages which vitiated the atmosphere round about this period, none touched so low a depth of moral depravity as these mass abductions of women on both sides. I say deliberately that that is a thing of which those of us who think of civilised government and want to conduct that government on civilised lines should feel ashamed. Very early in the course of these happenings, leaders in the country became conscious of the duty they owe in this connection and committed themselves to a policy which is embodied in this Bill. I should say that the first expression of this kind of policy was one for which the Indian National Congress was responsible. That policy was initiated at the session of the Indian National Congress on the 23rd and 24th November, 1946 and that Resolution had as its background the happenings that took place in North Eastern India, in Bihar, in Calcutta and round about Meerut itself where the Congress was held. The Resolution at that Congress was moved by Dr. Rajendra Prasad. It was seconded by Maulana Abul Kalam Azad, and Pandit Jawaharlal Nehru and Khan Abdul Ghaffar Khan supported it. It said:

"The Congress views with pain, horror and anxiety the tragedies of Calcutta, in East Bengal, in Bihar and in some parts of Meerut district. The acts of brutality committed on men, women and children fill every decent person with shame and humiliation. These new developments in communal strife are different from any previous disturbances and have involved murders on a mass scale as also mass conversions enforced at the point of the dagger, abduction and violation of women and forcible marriage."

Then the operative part of the resolution said:

"The immediate problem is to produce a sense of security and rehabilitate homes and villages which have been broken up and destroyed. Women who have been abducted and forcibly married must be restored to their homes. Mass conversions which have taken place forcibly have no significance or validity and the people affected by them should be given every opportunity to return to their homes and to the life of their choice."

That was a resolution which was adopted by the Congress many months previous to the 15th of August, 1947. But things happened even in the early part of 1947—from about the first March onwards—and they continued for several months. Only less than three weeks after the 15th of August, 1947 things became so bad that the leaders and the representatives of the Governments of the two Dominions met and resolved that steps should be taken to recover and restore abducted persons. They also pronounced themselves against recognition of forced marriages. That was on the 3rd of September, 1947.

About two months after that the All-India Congress Committee met on the 15th, 16th and 17th of November and passed the following resolution which incorporated an amendment moved by Shri Jai Prakash Narain and was in the following terms:

"During these disorders large numbers of women have been abducted on either side and there have been forcible conversions on a large scale. No civilised people can recognise such conversions and there is nothing more heinous than abduction of women. Every effort, therefore, must be made to restore women to their original homes, with the co-operation of the Governments concerned. The A. I. C. C. has noted with satisfaction the declarations made on behalf of the Governments of the two Dominions and East and West Punjab that forcible conversions may not be recognised and that they will co-operate in the recovery of abducted women."

That, Sir, was in the middle of November, 1947. On the 6th of December, 1947 there was an Inter-Dominion Conference at which the two Dominions agreed as to the steps to be taken for the implementation of the declarations that had already been made. As a result of this implementation recoveries were made and the House will be interested to know that between the 6th of December, 1947 and July, 1948 the numbers recovered in the two Dominions came to 9,362 in India and 5,510 in Pakistan. During the period 6th December, 1947 to 31st January, 1948 and also during February, 1948 the recoveries in Pakistan were larger than the recoveries in India. The recoveries during the first of these periods in India were 1,744, while recoveries in Pakistan were 2,000. In the month of February, 1948 the recovery from the Indian Union was 1,297 and the recovery from Pakistan was 1,406. In subsequent months the number of recoveries in India was larger than the recoveries in Pakistan. During the latter part of this period the recoveries in Pakistan dwindled down to very small figures and after July, 1948 recoveries in both Dominions dwindled down and it was found necessary that some active steps should be taken for the purpose of speeding up recoveries in both Dominions. As a result of negotiations between representatives of the two Dominions an agreement was reached on the 11th of November, 1948 the principal features of which were that each Dominion undertook to be responsible for the recoveries to be made within its own territory and the recovered persons were to be taken first to a transit camp, then moved on to a base camp and finally restored to their relatives in the other Dominion after enquiry.

It was also realised at the time that it was necessary to have some legal authority for making these recoveries. That legal authority had not been in existence prior to this Inter-Dominion Agreement of November, 1948. As a result of this Agreement, India issued an Ordinance on the 31st January, 1948 and it was thought at the time that Pakistan would issue almost simultaneously an Ordinance in identical terms, but there was some delay on the part of Pakistan and the Ordinance in Pakistan was issued only in May, 1948. That Ordinance is still in force and the law in Pakistan is that this Ordinance continues in force until it is abrogated.

Prof. Shibban Lal Saksena (U.P.: General): May, 1949, I think.

Shri Jaspat Roy Kapoor (U.P.: General): Our Ordinance was issued on 31st January, 1949.

The Honourable Shri N. Gopalaswami Ayyangar: Yes, 31st January, 1949 and theirs was issued in May, 1949. Our Ordinance of the 31st January, 1949 was due to expire on the 31st July, 1949 and it was renewed by another Ordinance in identical terms issued on the 30th of July, 1949. That second Ordinance will expire at the end of January, 1950. So, unless legal authority is renewed after that period, the work will have to come to a dead stop. Government's policy is that this legal authority should continue even after the 30th January, 1950 and that is why this Bill has been brought before this House because we shall have no other opportunity of inviting the House to consider this legislation before the current Ordinance is due to expire.

Shri Raj Bahadur (United State of Rajasthan): May I know when the Pakistan Ordinance expires?

The Honourable Shri N. Gopalaswami Ayyangar: It does not expire until the Pakistan Government formally abrogate it. It is now in force.

[The Honourable Shri N. Gopalaswami Ayyangar]

Now, so far as the provisions of the Bill itself are concerned, they are fairly simple. We define abducted persons. We provide for the manner in which they should be recovered. We provide also for camps in which they could be detained until their cases are disposed of. We provide for the authorities who are to determine who are abducted persons and who are not. Where there is a dispute we provide for a Tribunal to decide the dispute. There is a high power authority over this Tribunal which can review their decisions and in addition Government have the power to revise or review any such decisions. And then we provide for taking power to make rules for the administration of these camps and the manner in which enquiries should be held and for the procedure that should be followed in determining the question to whom these persons who are brought to camps should be delivered and how that decision should be implemented. There is also a clause in this Bill which grants indemnity to all officers who have taken or will take part in these operations and who should not be subjected to the risk of their acts being called in question on account of any technical irregularities or any legal technicalities for that matter. Those are the simple provisions of this Bill. I wish only to say just one or two words as regards the work itself. Now, the total number of persons who since December, 1947 have been recovered in the two Dominions exceeds 12,000 in India and 6,000 in Pakistan.

Shrimati Purnima Banerji (U.P.: General): Are they still to be recovered?

The Honourable Shri N. Gopalaswami Ayyangar: They have been recovered.

Shri H. V. Pataskar (Bombay: General): What is the number of women recovered since the passing of the Ordinance?

The Honourable Shri N. Gopalaswami Ayyangar: It is about 3,000 in India and about 700 in Pakistan. Perhaps hon. Members will be interested to know what has been done during the last few months. Starting from the passing of the second Ordinance in India, that is to say from August, 1949, in the month of August 145 women were recovered in India. In September 214. In October 355. In Pakistan 32 were recovered in August, 20 in September and 261 in October.

Dr. Bakhshi Tek Chand (East Punjab: General): Do these figures include the Azad Kashmir Territory?

The Honourable Shri N. Gopalaswami Ayyangar: This considerable figure of 261 in Pakistan was due to the Kashmiri women who were recovered.

Now there has been some criticism that while in India we have recovered women of all ages and so forth, in Pakistan they have recovered for us only old women or little children and not women of the intervening ages. I have had a statement prepared showing what the percentages in different age groups will be. Below 12 years in Pakistan, the percentage is 45 per cent. while in India the number of Muslim abducted persons recovered below 12 years was 35 per cent.

An Honourable Member: For the whole period?

The Honourable Shri N. Gopalaswami Ayyangar: For the whole period. From 12 to 35 years, 44 per cent. in Pakistan and 59 per cent. in India. 35 to 50 years, six per cent. in Pakistan and 4 per cent. in India. 50 years and above, five per cent. from Pakistan and two per cent. from India. I do not think really there is any justification for any kind of impression that Pakistan has deliberately withheld from us women in the intervening age groups. They have recovered whatever they were able to recover.

An Honourable Member: Does the percentage belong to the particular age groups or the total?

The Honourable Shri N. Gopalaswami Ayyangar: They are percentages of the total for each age group.

Now with regard to the work itself, one of the most pleasing and welcome features of this work is that it has been almost entirely done by social workers.

Prof. Shibban Lal Saksena: All the percentages do not make a 100 in Pakistan.

The Honourable Shri N. Gopalaswami Ayyangar: Does the hon. Member mean for the last three months?

Prof. Shibban Lal Saksena: The percentage of the various age groups.

Mr. Deputy-Speaker: The hon. Member has not noted the percentage of the other groups.

The Honourable Shri N. Gopalaswami Ayyangar: I do not believe that the age groups exhaust all the ages. I do not believe they do.

Now I gave you the figures for recoveries in the two Dominions. I was saying that the work was almost entirely the work of social workers. They have done remarkable work in this connection. They have been mostly women and credit should go to the large number of social workers of this type who have taken part in both the Dominions. In our Dominion, we have had a number of them. Shrimati Rameshwari Nehru did a lot of good work in this connection till recently; there have been other people; Shrimati Premnath Thaper of Jullunder did a lot of good work. But over them all presides one lady to whom I wish to make a special reference.

Sardar Hukam Singh (East Punjab: Sikh): Shall we be allowed to criticise the work of social workers, if they are to be applauded like that?

The Honourable Shri N. Gopalaswami Ayyangar: Whatever the House may choose to do, it cannot prevent me from paying a tribute to workers who have done good work in this connection. I was saying that over them today presides at the head of the Central Organization Shrimati Mridula Sarabhai to whose initiative, energy and above all courage in doing this work, I cannot pay a sufficient tribute. On the other side as well, I can mention the workers, but I would single out Miss Qazi, with whom I have had opportunities of discussing matters myself. She has done a tremendous lot of good work. In Lahore we have got another of our own social workers, Shrimati Bhag Mehta who does splendid work there. I should also here pay a tribute not only to our own officers but to a number of officers in Pakistan who have helped in the recovery of non-Muslim women, not an easy task, I can tell you from my experience of handling this work, not at all an easy task to make recoveries in the Pakistan Provinces. Now I wish this to go on record that this is a thing which as a civilized Government we ought to continue to do, but our own policy is that whatever may be done in the other Dominion, whether recoveries

[The Honourable Shri Gopaldaswami Ayyangar]

of non-Muslim women are adequate or not, we owe a duty to the large number of Muslim women who are abducted within our own territory and they have got to be recovered and if they wish to go there to their own original relatives, it is our obvious duty to see that the fullest facilities are made available to them to do so, and in this connection, I wish only to say this—that there has been a certain amount of disappointment and dissatisfaction felt at the fact that the number of recoveries in the other Dominion has not been as adequate as it might have been. There are various reasons for that, but I can tell you that both at the top of the governmental machinery in the other Dominion and amongst Heads of Departments, who are connected with this work in the other Dominion, there has been the fullest co-operation. If they have not produced better results, they are due to factors about which I would rather not speak at length to this House. (An Honourable Member: Why not?) After all a good deal of the success of these efforts should be due to the amount of co-operation that the officers engaged in this work, the social workers engaged in this work get from the population amongst whom they have to work, and it is rather disappointing for me to state that the co-operation that this work has received from the general public in the other Dominion has not been as heartening or as helpful as we have received in this Dominion from all classes of people and that, perhaps is the reason why the number of recoveries in the other Dominion is not as good as it is in ours, but I can tell you that latterly even public opinion is changing particularly in the West Punjab and political and other social organizations led by fairly important persons are pledging themselves to this cause and I do hope that recoveries in the future will be better than they have been in the past.

Prof. Shibban Lal Saksena: Have you any idea of the total number of persons abducted?

The Honourable Shri N. Gopaldaswami Ayyangar: At one time we thought we could estimate the number of non-Muslims abducted in Pakistan at about 33,000. Pakistan estimated the number of Muslim women abducted in India at about 50,000, but these are rather wild figures. We have so far recovered between the two Dominions something like 19,000 and at the rate of recovered that we have had in India during the last few months after the second Ordinance was issued, there can be absolutely no doubt that there are considerable numbers of Muslim abducted women still to be recovered in India, and in spite of the fact that the recoveries in Pakistan have been as low as they have been, I do consider that there are large numbers of non-Muslims women still to be recovered in Pakistan.

Shri Raj Bahadur: What is your probable estimate of recoveries to be made?

The Honourable Shri N. Gopaldaswami Ayyangar: It is very difficult to say. The latest lists that we have sent to Pakistan, I believe, total to something about 7,000 to 8,000 women, about whom we could get particulars, but I do not think even that number exhausts.

Shrimati Purnima Banerji: Are our social workers allowed to visit the camps in Pakistan?

The Honourable Shri N. Gopaldaswami Ayyangar: Yes, they are. As I said we have particulars of these 7,000 or 8,000 women and we have communicated them to Pakistan for the purpose of helping them in making their recoveries.

Pandit Thakur Das Bhargava (East Punjab: General): Does this number include women taken away from Kashmir by way of raid, etc.?

The Honourable Shri N. Gopaldaswami Ayyangar: To estimate the Kashmir women taken away is even more difficult than to estimate the women in West Pakistan. With a number of women some of the most atrocious things were done. They were exhibited in batches and raiders were asked to choose whom they wanted. They were privately sold. They were even sold in the market place in tribal areas.

Sardar Hukam Singh: Was it not after the agreement of 3rd September, 1947, between the two Governments?

The Honourable Shri N. Gopaldaswami Ayyangar: Yes. The Kashmir thing happened so much later.

Shri Raj Bahadur: What is Pakistan's estimate of Muslim women in our country?

The Honourable Shri N. Gopaldaswami Ayyangar: They originally estimated it at 50,000.

Shri Raj Bahadur: What is it now?

The Honourable Shri N. Gopaldaswami Ayyangar: They still stick to their figure, but I consider their figure is very much exaggerated. But still there are very many women still to be recovered.

Sardar Hukam Singh: The hon. Minister has given us the figure at which Pakistan estimates Muslim women abducted in India, but we have not yet got the estimate of our Government, about the number of Muslim women abducted in India.

The Honourable Shri N. Gopaldaswami Ayyangar: We have made no such estimate with any pretence to.....

Sardar Hukam Singh: But your publications give the number as 21,000, and now we are told no estimate has been made. They give the numbers as 21,000 Muslim women abducted in India as against 33,000 abducted in Pakistan.

The Honourable Shri N. Gopaldaswami Ayyangar: I do not know what publication the hon. Member is referring to. If anybody gave this figure of 21,000, I am afraid he was rather daring in making an estimate of that sort. It may be twenty-one, or it may be only fifteen, for that matter.

Mr. Deputy-Speaker: How long is the hon. Minister likely to continue?

The Honourable Shri N. Gopaldaswami Ayyangar: I will take from five to ten minutes more.

Mr. Deputy-Speaker: Then we shall meet after Lunch. The House stands adjourned to 2-40 p.m.

The Assembly then adjourned for Lunch, till Forty Minutes Past Two of the Clock.

The Assembly re-assembled after Lunch at Forty Minutes Past Two of the Clock, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

ABDUCTED PERSONS (RECOVERY AND RESTORATION) BILL—Contd.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I have very little to add to what I said in the morning. I only wish to make one point very clear.

This legislation we are undertaking in pursuance of an agreement which we have entered into with Pakistan. One very important consideration in this connection is that as far as possible the legislation on both sides of the border should be in substance the same. There is an ordinance already in force in Pakistan. It would be very inconvenient for us in passing the Bill today that we should make any amendments therein which will conflict with what the two Dominions have already agreed to and what is embodied in the present ordinance in force in Pakistan as also in the Ordinance that is in force in India today. Subject to that over-riding consideration, I have already examined all the amendments of which notice has been given and as a result of discussion with the hon. Members of the House interested in these amendments I have already committed myself to accepting some of those amendments which, in my opinion, will not conflict with the agreement we have entered into with Pakistan and which will not interfere in any substantial manner with the policy which this Government are pursuing in regard to these matters. That is one very important consideration that I wish to place before the House.

I gave certain figures this morning when I was asked a question as to the numbers we had communicated to the Pakistan Government of abducted persons yet to be recovered from Pakistan. I think my hon. friend Dr. Bakhshi Tek Chand was very interested in getting that information. We have now supplied fresh lists of about 7,520 names of abducted persons yet to be recovered from Pakistan. In this number are included about 5,000 persons, of whom definite clues were furnished and 2,000 of them were specifically stated to have been in the custody of government servants in Pakistan. These lists are, however, not exhaustive. Though we had given a list of something like 7,000 to 8,000 persons, my own view is that there is yet a considerable number in addition to the numbers we have already given to Pakistan, who will have to be recovered, if the agreement between the two Dominions is properly implemented. It is to our interest to keep this agreement in force for as long a time as possible, in view of the numbers of non-Muslim women still to be recovered from Pakistan. It is not merely a question of recovering Muslim women in our own territory, about which I said we are in conscience bound to do the best we possibly can, but it is also a means of persuading Pakistan to put more energy into the effort they are making for the purpose of recovering as many more non-Muslim women from Pakistan as possible.....

Dr. Bakhshi Tek Chand: May I ask the hon. Minister if Pakistan has also supplied a similar list giving particulars of the Muslim women in India who have yet to be recovered?

The Honourable Shri N. Gopalaswami Ayyangar: They have sent us lists at various times of such persons about whom they had any information or clues. I cannot remember that they sent any consolidated list of the kind that we have sent to them.

Dr. Bakhshi Tek Chand: When was the latest list from Pakistan Government received by the hon. Minister and what was the number given therein?

The Honourable Shri N. Gopalaswami Ayyangar: If it is available, I shall give it in the course of the debate.

I do not think I need add anything more to what I said this morning. It is very important to remember that it is a matter of conscience, it is a duty which we owe to human society that we should continue to make recoveries in our own Dominion. It is a duty which we owe to the fathers, mothers and husbands of large numbers of non-Muslim women who are still to be recovered from Pakistan, that we should continue this arrangement with that Dominion with a view to get as many more of them recovered as possible. I would therefore ask the House to accept the principles on which the Bill is based and to give Government the authority and the machinery necessary for doing their duty in this connection.

Mr. Deputy-Speaker: Motion moved:

"That the Bill to provide, in pursuance of an agreement with Pakistan, for the recovery and restoration of abducted persons, be taken into consideration."

Pandit Thakur Das Bhargava: Sir, I support the motion for the consideration of the Bill. But I am sorry I cannot agree with all that has been said in connection with this Bill by its mover. When we consider the situation as it resulted after the Partition in regard to these abducted women, we cannot look at the question with equanimity. If there is any sore point or distressful fact to which we cannot be reconciled under any circumstances, it is the question of abduction and non-restoration of Hindu women. I am sure that every Indian will respond to the appeal which the hon. the Mover of the Bill has just made that every Muslim woman should be restored. Everybody will join issue with him on this point. But at the same time when we are considering this question we cannot ignore what has been done in Pakistan in relation to this matter. If this is a mere matter of international morality I am at one with the hon. Mover that we should have no hesitation in restoring the Muslim girls who are to be found in India to Pakistan even if they do not return any of our girls. But why did we enter into an agreement for this purpose? I know the genius of our people, the high morality of our people and we are all willing to see that every Muslim girl should be restored. But all the same when we have entered into a bilateral agreement—and with all solemnity they entered into the agreement—let us see how it has been honoured in letter and in spirit by Pakistan. The hon. Mover has applauded the Pakistan Government. I am sorry I cannot join with him in congratulating the Pakistan Government or the Pakistan officials in this respect. I do not know much about the social workers of Pakistan. If they have behaved in the manner the hon. Mover of the Bill has suggested to us, all honour to them. At the same time we know that on the 3rd September, 1947 an agreement was signed between the two Governments and the ink was not dry when the Pakistan Government along with the Azad Kashmir Government raided parts of Kashmir and took away our women. I can understand lapses in the case of a private individual. There might have been lapses on the part of Hindus and Sikhs on this side and on the part of Muslims on the other side. But for a Government to be a party to this loot, to this raid upon women and property and then to say that as a matter of fact they were not a party to it, and ultimately to accept that they were a party to it—all this betrays a state of things for which nobody on earth can justify the Pakistan Government. In October, 1947 and later on, before the Cease-Fire was signed, Pakistan and the forces of Pakistan perpetrated such brutalities in Kashmir that one cannot fully describe them or even think of them with equanimity. Sir, I am a very humble man, I do not

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understand the equities and the relations between States. But when I consider the relations between Pakistan and India, I am sure many in this House will agree with me that our Government has behaved in a very forbearing spirit, in a very weak spirit I should say. I have read some of the letters which have been received from Hindu girls in Pakistan and the pathetic manner in which they describe their position is one which will give cause for sorrow to everybody in the House if I were to read out some portions of them. In one letter a lady says "I am performing my *saudhya* every day, I am reciting *Gayatri*, and I am all the day thinking when our gracious Government will be pleased to extricate us from this our present position." We may appear to the world to be very big. We may boast of anything and we may do anything in this world. But where is the heart in India which does not feel that as a matter of fact our Government has not been able to give protection to these Hindu girls? I can understand it is very difficult for the Government to make a war or another Government. But I would like to know why this Cease-Fire Agreement was agreed to before those girls who had been taken away from Kashmir were returned to India. If we were bold enough, good enough, sagacious enough or honest enough we should not have entered into an agreement before the girls who had been captured in Kashmir were returned back to us. When I consider the cruelties and brutalities perpetrated by these Azad Forces and the Pakistan Forces in Kashmir I—a very humble and peaceful man—do think that if there is any justifiable cause for fight or for war between Governments this is the cause. You will remember, Sir, how when one Ellis was kidnapped by some Pathans the whole of Britain shook with anger and indignation and until she was returned Englishmen did not come to their senses. And we all know our own history, of what happened in the time of Shri Ram when Sita was abducted. Here, where thousands of girls are concerned, we cannot forget this. We can forget all the properties, we can forget every other thing, but this cannot be forgotten. And this will always remain a sore point in the relations between Pakistan and India. I should have therefore thought that if moral considerations did not prevail with the Pakistan Government, at least mundane considerations will prevail with them. We have been told that Pakistan claimed that 50,000 Muslim girls remained in India. I do not know what the figure was which our Government gave. (An Honourable Member: There are 33,000). Today it was stated that 33,000 remained there. May I submit this? I live among the people. I live in East Punjab. I know my Province very well. I can speak with full authority so far as these three or four districts of Haryana are concerned. There are very few Muslim women who remained here. It is entirely wrong to suggest that a very large number of Muslim women are now in India. In the Statement of Objects and Reasons I find that many Muslim women are still here in India to be restored. It is stated "a large number of such women and children still remain to be recovered." I do not know what the meaning of the expression "large number" is. But I can assure the hon. Mover that so far as my information goes that statement is not very right. There may be some Muslim women in India and we want that these should be returned. It is not that we do not want that they may be returned. But at the same time it is wrong to suggest that there is a great number here. As regards our women in Pakistan I do not think it is right to say that only 7,000 to 8,000 of them now remain to be recovered.

The Honourable Shri N. Gopalaswami Ayyangar: May I correct my hon. friend? I made no statement that there were only seven or eight thousand women. What I said was we had sent lists which totalled seven to eight thousand women about whom we had information. And I believe I added in

the course of my speech this morning that my own view was that there were many more non-Muslim women in Pakistan.

Pandit Thakur Das Bhargava: How many more, Sir?

The Honourable Shri N. Gopalaswami Ayyangar: That is a matter of guess.

Pandit Thakur Das Bhargava: I am glad I stand corrected. My view is the same, namely that there is a very large number of Hindu and Sikh women in Pakistan. When, as it appears, my hon. friend has sent full particulars of about seven to eight thousand women, may I humbly enquire why all these ladies have not been returned?

Dr. Bakhshi Tek Chand: Two thousand of them are with Pakistan officials.

Pandit Thakur Das Bhargava: My hon. friend says that two thousand of them are with Pakistan officials. Does it not follow that the Pakistan Government is not playing the game? It may be that some of them don't want to return. I would not like them to be forced either. I can understand that. But when you have given such full particulars you are certain that these women are there. Is there any doubt therefore that the Pakistan Government is not playing the game? May I humbly enquire in respect of how many Muslim girls you have got those particulars? I have been informed that no such particulars have been given to us, or particulars only of a very few. I will also enquire as to what we have done in regard to those few girls. Have we been able to recover or not recover them? I can understand that in a matter of this kind so far as number is concerned it is always a matter of conjecture and guess. Nobody gives the exact number. But when full particulars are given can they not be recovered? I also sent some particulars to the Department of Rehabilitation about some Kashmiri girls, but so far I have not heard anything as to their fate. When we know how those girls were sent up to the other districts and how they have been treated we can understand that there is no prospect of their return.

Sir, I was submitting that when the two Governments entered into some sort of an agreement that agreement must be adhered to by both Governments and given effect to. We have done very well. I congratulate the hon. mover that he has succeeded in restoring 12,000 girls and if he succeeds still more I will congratulate him more because so far as we are concerned we know how to honour our moral obligations. I have not stood up in a spirit of grumbling or to say to him that he should not send those Muslim girls. My submission is that full efforts, right efforts have not been made by our government to get these abducted girls of ours restored to us. That is my complaint. The Pakistan Government does not understand the language of morality, it only understands the language of force and retaliation. I will not speak of the properties left there, I will not speak of anything else, but I know this much that our Government have entered into bilateral agreements with Pakistan in regard to certain matters, for instance, in regard to the exchange of records. May I know why they agreed with them that we will send our records to them and they should send their records to us? The same was true as regards exchange of prisoners. Nations agree to exchange prisoners. A prisoner in this country cannot be held in any manner as a hostage of another country. If I don't send away a prisoner from here are they justified in not sending one from there? Yet we know there is exchange of prisoners. May I know why we entered into agreements on exchange of property? If a refugee does not get property here, is it any reason that a refugee should not get property there?

The Honourable Shri N. Gopalaswami Ayyangar: May I interrupt to stem the tide of developing the argument which my hon. friend is now using?

[Shri N. Gopaldaswami Ayyangar]

There is after all a difference between inanimate property and human beings. There are some humanitarian considerations so far as the restoration of human beings is concerned. Even with regard to exchange of prisoners there has been no agreement between the two Dominions that the same numbers should be exchanged.

Pandit Thakur Das Bhargava: I have not suggested so far anything for action because I do maintain that even if the Pakistan people don't send away a single Hindu girl, we should send away all the Muslim girls. But with regard to agreement, I submit that while a prisoner is a human being and not a chattel and you can make agreements about prisoners, there is no reason why in relation to these girls also a country is not justified in keeping them as hostages for some time. I know in one of the districts of Kashmir 140 girls of India were kept by Pakistan and never returned. We had 237 of theirs and we didn't return them. As a result of agreement we returned the 237 and got the 140. So, our Government should exercise the utmost pressure to get the Hindu girls back. I don't suggest for a moment that the abducted Muslim girls should be kept here because I believe that not only would it be good for them to be sent away but it is equally good for us to be rid of them. I don't want immorality to prosper in my country.

It is an accepted principle that hostages have been kept by all nations at all times. I cannot understand why our Government cannot under the circumstances justify its action. Take away all these women from the hands of private persons who had abducted them and keep them in camps. As soon as you get an equal number from the other side exchange them. I don't suggest that these girls should remain there for all time, but all the same if Pakistan can only understand the language of retaliation, I don't see any harm in employing this tactic in getting our girls. As a matter of policy, as a matter of strategy it should have been done. I understand there is an amendment in the name of Sardar Bhopinder Singh Man which speaks of exchange. I don't go so far as that. I don't want heads to be counted. These Muslim girls who are here are the subjects of our civilised and humane Government as long as they are here. According to the Constitution which we have passed, they are the citizens of India and therefore we cannot in any way keep such hold over them that we may not allow them full liberty as we allow to the others.

After saying that let me examine the Ordinance that we have passed and the Ordinance which Pakistan has passed and see how we stand in relation to that Ordinance. A complaint was made by the mover that we in pursuance of that agreement passed an Ordinance very readily whereas it took almost a year for the Pakistan Government to pass an Ordinance. This speaks for itself.

The Honourable Shri N. Gopaldaswami Ayyangar: Not a year but five months.

Pandit Thakur Das Bhargava: It was on 27th May, 1949 that they passed the Ordinance.

Let us look at the definition of the word "abducted". In ordinary law abduction is only possible when either force or fraud is employed. Abduction is no offence under the Indian Penal Code unless it is attended with certain motives. Abduction implies force or fraud. But here an abducted person has been defined in a particular way wherein there is no question of force or fraud nor is it necessary to prove any motive so far as abduction under the Ordinance is concerned. It might be said that the definition is similar on both the sides. I would submit that even if it is the same, the question arises whether the

scope of the definition ought to have been larger on both the sides. The scope is very large and includes such people as may not be willing to go but will be forced to go. The abducted person has been described herein as follows:—

"'abducted person' means a male child under the age of sixteen years or a female of whatever age who is, or immediately before the 1st day of March, 1947, was, a Muslim and who, on or after that day, has become separated from his or her family and is found to be living with or under the control of a non-Muslim individual or family, and in the latter case includes a child born to any such female after the said date;"

In the first place, as I have submitted, there is no question of force or fraud. In the second place, if that Muslim child or Muslim woman is under the control of a non-Muslim individual or family, then in that case alone the person becomes "abducted", otherwise not. If the person is in charge of a Muslim family, then what? Then she is not an abducted person? Then again, this is a modern age and we know the liberty the women of India are enjoying. Supposing today a Muslim graduate girl marries a Hindu boy, may I humbly enquire whether as the definition stands that girl will not be taken away and the police will not go to their house and that educated Muslim lady will not be put in a camp and sent to Pakistan according to the present provision.

Shri M. Tirumala Rao (Madras: General): Is it possible for them to marry without changing their religion?

Pandit Thakur Das Bhargava: The Act of 1872, passed some 70 or 80 years ago, allows a person to change his religion; he can go to any court and have his marriage performed. What is the difficulty? Even tomorrow we will be getting another reproduction of that enactment. It is coming tomorrow. I know of many cases in which Muslims have married Hindus, Hindus have married Muslims. Therefore, if the definition were to remain as it is there is no reason why any Muslim girl who has married with consent will not come under this clause.

Then again, the agreement was only about families and boys under the age of 16. May I humbly enquire why innocent children have been included? The words are: "includes a child born to any such female after the said date". Children born after the 1st day of March, 1947 are also, according to this definition, to be restored. The Ordinance passed by Pakistan does not contain these words. There is no obligation on Pakistan authorities to restore such children.

Dr. Bakhshi Tek Chand: Nor in the Agreement.

Pandit Thakur Das Bhargava: Yes, in the Agreement these children are not included. As regards the date also they have given two dates: 1st day of March 1947 and the ultimate date, 1st January 1949. In regard to these two matters, our Ordinance goes much further than what was agreed to.

In regard to these children it can be said that after all, if you do not keep the children with their mothers, you are perpetrating a great crime against humanity. I know that. But at the same time, you must realise that all these children born in India are the citizens of India. Supposing a Hindu man and a Muslim woman have married. Who should be the guardian of the offspring? According to our guardianship law, I know the father has got a much prior right. But in regard to young children, the custody is given to the mother so that she may be able to look after them while they are young. But this matter has been the subject of many rulings. The rulings have been that so far as custody of a child is concerned, the point to be considered is that the child is not to be given as a matter of course to the girl. Now, when a Muslim girl is restored, she will go to Pakistan; she may change the religion of that child. She will take away that child without any prospect of returning that child. The child will be considered as illegitimate and is liable to be maltreated

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and killed. Between father and mother, who is the better entitled to guardianship? If they both live in India, I can understand that the mother is a better guardian so far as children of the age of five and below are concerned. But here the child is being totally taken away to another country. I would humbly submit that the father cannot be deprived of his right of guardianship of the child.

Mr. Deputy-Speaker: Is he the legitimate father of the child if he abducts a woman but does marry her?

Pandit Thakur Das Bhargava: Then I understand that you want to deny the rights to a major woman to stay here. You want to take away the rights of a major woman who has remained here after the partition. Cannot a girl marry with her own consent any person she likes if she is above the age of 18 and if she wants to stick to India, is there any power on earth which can take her away to Pakistan? My submission is that the law of nations is clear, the law of humanity is clear, the Indian Penal Code is clear, the Constitution which we have passed is clear, that you cannot force a woman above the age of 18 to go to Pakistan. This Bill offends against such rule. In your example, you take a child which was already born. What about a case when after 1947 the woman marries a man and a child is born? It takes only nine to ten months gestation during which the child has to remain in the mother's womb. During these two years, many children have been born. Why should they all be forced to go to Pakistan? Why was there not any provision in the Pakistan statute about it? I am at one with the Mover of the Bill that if in a particular case the girl and the husband agree that the child may be taken away in the interests of humanity, that child may be taken away. But if the father insists that he would look to the interests of the child and will see that it is properly brought up, I do not understand why by executive action that child should be given to Pakistan merely because we have written these words here in the Ordinance? In a matter of this kind, each case ought to be treated on its own merits. It should not be made a rule that in every case the child is to be given over as a matter of rule. It is something like the rule that when you plant a tree it grows on the ground; therefore the tree goes with the land and the fruits of the tree go with the tree. A child is the fruit of the labours of two persons. There is no reason why the father should be deprived in each case. Why should we make this a rule? Each case will have to be considered on the particular circumstances and the Tribunal should give the decision.

Leaving this point, I come to a most important point of the Ordinance. It is this. Section 4 says:

"If any police officer, not below the rank of an Assistant Sub-Inspector or any other police officer specially authorised by the Provincial Government in this behalf....."

probably the Head Constables have been authorised in this behalf by our Government—

"...has reason to believe that an abducted person resides or is to be found in any place, he may, without warrant, enter and search the place and take into custody any person found therein who, in his opinion, is an abducted person, and deliver or cause such person to be delivered to the custody of the officer in charge of the nearest camp with the least possible delay."

Now, Sir, lawyers in this House who are conversant with law fully know that under Sections 100 and 552 of the Code of Criminal Procedure it is the Magistrate who has got the right to issue a warrant of this nature. Now, the Magistrate's powers are taken away. A Head Constable, if he has reason to believe that there is an abducted person in a house, may go at the dead of night and enter into another person's house and take possession of the body of that person.

Even in the Criminal Procedure Code there are Sections 47 and 48 which give some sort of security to an individual in his home. In this Bill, even those safeguards have been taken away. We know today that a Police Sub-Inspector has to approach a Magistrate for warrant and the Magistrate will only issue the warrant if he is satisfied. That is provided under Sections 100 and 552 of the Code of Criminal Procedure. But here the Magistrate's opinion is not to be taken. The Head Constable or the Sub-Inspector can go at any hour of the day or night and enter a house without any sort of warning to the inmates. Now, a girl may have been married with consent, or the alleged abducted girl may really be a Hindu girl. I humbly submit we have heard of cases in which Hindu girls have been captured and afterwards through the intervention of my hon. friend the Mover of the Bill or the intervention of some authority, their cases have been scrutinised. In Delhi a thing like that happened. We read it in the papers. Now a girl may have been married ten years ago. They were also captured and taken to the camp. Have we not heard of such cases also?

Shrimati Purnima Banerji: They were married to whom?

Pandit Thakur Das Bhargava: They were captured in their own houses and taken as abducted persons, whereas they were not abducted persons. When such large and arbitrary powers are given to police officers, these cases are bound to happen. I do not accuse any person. I know how honest our police is. At the same time, we know that there is ample scope for police officers to make mistakes. It is the more so in the case of this Bill, because all the legal safeguards given in the Criminal Procedure Code are absent from it. According to law, if a person receives a report, he has to record a report. But here nothing is to be recorded. Only "reason to believe". There is no question of even credible information. There is no question of even writing any *Zimni* by any police officer, so that this man's action may be scrutinised. He alone is the judge.

As if this is not enough, when we proceed further and come to clause 6 we find that a great departure has been made from the law of the land. When a person is brought to camp, what happens? The only question which the Tribunal has to decide is whether he is an abducted person. No other question is open to be decided by the Tribunal. And what is this Tribunal? Two S. Ps. of the two Dominions constitute this Tribunal. There is no judicial officer. These two people have to resolve the points of dispute if any such points arise between them. The exact wording is this:

"If any question arises whether a person detained in a camp is an abducted person or not, it shall be referred to, and decided by, a tribunal constituted for the purpose by the Central Government."

These two S. Ps. constitute the Tribunal. It goes on further:

"The decision of the tribunal constituted under sub-section (1) shall be final."

May I humbly ask, what happens when the Constitution which we have passed comes into force? Where is the safeguard of *habeas corpus* in this? Supposing a woman is taken there who is not an abducted woman? What right has she under the law to protest? The two S. Ps. shall decide her fate and their decision shall be final. My humble submission is that this is entirely in violation of the Fundamental Rights given to every person under our Constitution and after the 26th of January 1950, this law will not stand. It will be declared to be void. Therefore, so far as this question of *habeas corpus* is concerned, we have to take good care to see that the rights of *habeas corpus* are not taken away from any person who is treated as an abducted person, because we do not know which person may be treated as an abducted

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person by mistake. If you will read clause 8 along with clause 6, the conclusion will be that the two S. Ps. who constitute the Tribunal will be the sole masters of the lives of those who are unfortunate enough to be captured under clause 4.

Then again, Sir, there is a provision that the Central Government will have power to review or revise any decision. I want that our Government, who is the final arbiter of the destinies of the persons living in this country, should have the courage to say "No" to the Pakistan Government if in their wisdom they consider that a person should not be made over to the other Government. I want them to be clothed with full powers in respect of the entire inmates of the camp, so that persons are not handed over on account of the agreement, which has been broken by the Pakistan Government, not once, not twice, but hundreds of times.

Let me now go over to the other clauses of the Bill. The hon. the Mover made particular reference to clause 9. May I humbly suggest that in a matter of this kind sections 52 and 79 of the Indian Penal Code give adequate protection to government officers for acts done in good faith. I fail to see why this extra safeguarding provision must be made in the Bill and my humble submission is that this is a provision which we cannot possibly accept.

I am very glad, Sir, that the hon. the Mover of the Bill has been pleased to accept certain amendments suggested by us and I must publicly thank him for having considered the points of view of those who have put in these amendments after thorough consideration. It is true that in regard to one or two points he has not agreed with us and I would certainly beg of him to consider them further.

In regard to the legal and moral aspect of the case, I find that we are trying to strike a compromise between the two. Now it is more than two years since these abductions have taken place. Many of the girls have reconciled themselves to their new surroundings; some of them have children born to them. The mere fact that an agreement has been arrived at between the Governments of the two Dominions, should not lead to the negation of the individual rights of the citizens of the two countries. My humble submission is that now we must make it a clear rule that if a woman of the age of say 18 or 20 years does not agree to go to the other country, she should not be forced to go. I can understand, Sir, that if you capture a girl in a house, she may not say that she is willing to go to the other country. And I feel that such statement should not be regarded as real consent. But if after full efforts have been made to find out what the real feelings of the girl are and it is found that she does not agree to go, she should not be forced to go. Whatever may be our moral obligation, nobody should be forced to go to a place without her real consent otherwise this would be abduction in the real sense of the word as used in the Indian Penal Code. I understand that my amendments in regard to this matter in clause 6 are acceptable to the hon. the Mover.

But so far as the proviso goes, I want the Central Government should be given more powers than they are possessed of under the proviso. Similarly, Sir, the hon. the Mover of the Bill has agreed to accept for the words "reason to believe" the words "reason to believe in writing". So far as it goes, it is all right; I would have preferred that he accepted the words "credible information in writing".

In clause 2 he has agreed to accept a change of the date. But he has not agreed, so far as children are concerned. In regard to children, I do not want to lay any absolute rule. If the interests of children and humanitarian considerations demand that they should be allowed to leave, no objection could be raised. I do not want to go against the principles of morality either.

As regards *habeas corpus*, I humbly submit with all the emphasis at my command, that so far as clause 8 is concerned, the jurisdiction of the courts should not be taken away in this summary fashion. I do not know, Sir, whether under the New Constitution which will come into operation from the 26th of January 1950, there will be any power in any Legislature to say that except in a case of emergency under section 359 a person could be deprived of the writ of *habeas corpus*. In regard to the tribunal we should agree to appoint judicial persons who will go into the question as to whether a person should be restored or not. It should not be an S. P. of this place or that place.

I am very much opposed to special courts appointed by Provincial Governments. I want, Sir, that in future we must rely more upon our ordinary courts of our country which should be kept above suspicion. There is no reason why we should have recourse to special courts in regard to this matter. As soon as a person is captured and taken to a camp, he must be produced before a magistrate and that magistrate should hear the party and decide whether he is a fit person to be handed over to the other country.

In the end, Sir, I would again submit that so far as the political and psychological aspect is concerned, the refugees who have come from Pakistan and whose daughters and sisters have been abducted are very sore on this point. I would say, Sir, that all possible attempts which this Government is capable of making must be made so that our girls may be restored. Even viewing it from the point of morality, we cannot ignore this. We cannot forget the fact that thousands and thousands of people in this country cannot feel happy unless their near and dear ones are returned. But if our Government is helpless and has done all that they could, these people should have the satisfaction that the Government was not capable of doing more. But if the Government does not do enough, if they do not utilise the powers which they have under the agreement, then, Sir, I submit that the refugees have got a good cause for grievance. Consistently, with this, I would submit that I would rather like to say that every Muslim woman who is here has a right to be restored. Subject to these points which I have made I support this motion, because it is quite necessary in our interest also to pass this Bill.

Mr. Deputy-Speaker: I find that there are three motions for reference of this Bill to Select Committee. They are in the names of Pandit Thakur Das Bhargava, Shri Jaspat Roy Kapoor and Sardar Hukam Singh. I find that Pandit Thakur Das Bhargava is not interested in moving it. What about Shri Jaspat Roy Kapoor and Sardar Hukam Singh.

Shri Jaspat Roy Kapoor: Sir, I am not moving it, but I should have a chance to speak.

Sardar Hukam Singh: I am not also moving it. But I would like to participate in the discussion.

Sir, we have been told on the floor of this House that this Bill is a very short and simple one. So far as the appearance and the volume is concerned, I agree entirely with the hon. Mover, but I feel that this Bill has many implications and has much importance. The interest that it has aroused and the importance that has been attached to it can very well be gauged from the number of amendments and the number of Members who have tabled them. As far as I can see, there are more than seventy amendments while the Bill contains only six operative clauses and as many as twenty Members have taken interest in this. So far as the aims and objects of the Bill are concerned, I am sure everybody would agree with them and there cannot be any doubt about this. It is an irony of fate, Sir, that such abductions, political abductions, on

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such large scale took place in our country. I feel that innocent girls were abducted and fell victims to the madness of the masses. That is a very sad chapter in our history, and I am sure everybody would agree with me when I say, and I say it honestly, that every girl who was forced to remain behind against her will under the stress of the circumstances and the troubles that happened then, must be restored and our Government should use all resources as far as it is possible to rescue and restore every girl that is found here. When I read the aims and objects of this Bill, I was surprised to find the remark:

"As a large number of such women and children still remain to be recovered, it is proposed to provide for legislation....."

I had thought that a large number of abducted persons on this side had been restored. When I read some press reports I found that our workers and our organisation in their over-enthusiasm and zeal, had even snatched, in some cases, Muslim girls who got converted about eight or ten years ago and had been living peacefully in their houses and had married non-Muslim boys here. There were cases in which they were snatched from their homes and taken to transit camps. Other hon. Members also must have noticed these cases in the press. From those reports I thought that perhaps real cases of abductions had already been exhausted and our workers are using their endeavours to take away those innocent girls also in order to make up the number that was perhaps required of them; otherwise if in their attempts they could find *bona fide* cases, they would not have resorted to such methods. Secondly, I agree that we cannot take pride in what happened on this side, because communal frenzy or madness was at its height on both sides and I could say it was equally high in both the Dominions, but I can boast that our Dominion certainly has been very sincere and honest in making recoveries and restorations. So far as the number is concerned, we were told this morning that Pakistan claims that we have about 50,000 of their people here. As far as I could find from the answers given to questions in this Assembly, it was on 17th August 1948 that the hon. Shri N. Gopalaswami Ayyangar stated:

"The exact number of women and children abducted in India and Pakistan is not known to any agency engaged in the rescue and recovery of abducted women in either Dominion."

Further on he says:

"The total of such lists, however, which we handed over to Pakistan for recovery was nearly 33,000. Similar lists handed over to us by Pakistan in regard to Muslims to be recovered from India totalled about 21,000."

Then again, in answer to another question, the hon. Minister, now the Mover of this Bill, made a statement to the same effect that abductions in Pakistan were 33,000 and on this side they totalled about 21,000. Now, what have been the results of these recoveries in both Dominions? From December 1947 to March 1948, 4,407 non-Muslims were recovered while 4,702 Muslim girls—it may include minors also—were recovered. Then again from April 1948 to August 1948, 1,195 non-Muslims were recovered, while during the same period 5,021 Muslims were recovered. From August 1948 to April 1949, 200 non-Muslims were recovered in Pakistan, while 1200 Muslims were recovered in India. And then in May 1949, in that month alone, we got 26 non-Muslim women, while we returned 413 Muslim women. This morning we were told that Pakistan had been honest in this recovery and restoration, though some of the lower officers and their citizens might not have helped so much. To Prof. Shibban Lal Saksena's question, "was it a fact that some districts in the West Punjab were closed to the M.E.O. and the M.E.O. could not go to those

districts to recover females that had been abducted?" the answer given by the hon. Shri K. C. Neogy was as follows:

"Five of the districts of West Punjab bordering on the Jammu and Kashmir State are closed to Indian troops functioning elsewhere in West Punjab under the Military Evacuation Organisation. Conditions in these districts are reported to be not such as to enable non-Muslim civilians to go about with any sense of safety or security. It has also been reported that a large number of non-Muslim women abducted from West Punjab, as well as from Jammu and Kashmir State are in these districts."

In the first few months the agency which was going for recovery and restoration was the M.E.O. on both sides and as we have seen, in the first three months when they were functioning, the results were very good on both sides. Even when those districts were closed to that organisation, certainly recoveries made were considerable, equally good. I should say, as those made in India, but as soon as that organisation was disbanded and it was left to both the Dominions to provide for agencies to recover and restore women, certainly we find a sudden decline in this recovery and restoration. As the figures speak for themselves, the attitude of Pakistan Government has not at all been helpful in this direction and this was admitted on the floor of this House in answer to a question by Giani Gurmukh Singh Musafir when the hon. Shri N. Gopalaswami Ayyangar said: "We have made protests and protests and protests and there was less co-operation on the other side." So it is an admitted fact that so long as the M.E.O. was working, there were good recoveries on both sides, but as soon as that was taken away and it was left to the Dominions themselves—certainly we are proud that we have given good numbers and achieved fine results—but so far as the other Dominion is concerned, we have not got that co-operation and response which should have been desirable. I should not be misunderstood in that respect that I am for exchange of person to person or that I want that those girls who are here helpless and victim of circumstances, that they should not be restored or returned. But my complaint is that Government has not been taking adequate steps to compel and force the Pakistan Government to do as we were doing here. If we had taken it more seriously and the Government would have used its full resources in persuading that Government, perhaps the results would have been much better. I can well realise that there can be no calmness, no peace of mind in a family which has been bereft of its female and, therefore, I can feel for those Muslim girls as well as for those females that are in Pakistan as to how they would be feeling within themselves. And I support the Government in this measure so far as its objects are concerned that we should try to restore as many as we can, but at the same time, I do emphasise, with all the force that I have got, that our Government has pursued a very weak policy in that respect and the refugees have got complaints against this Government that they have not so far taken this matter seriously. When I say that I support the motion, it should not be understood that I support every clause of it. I have serious objections to certain clauses contained in this Bill, although I support the principle underlying it. In the interpretation clause, it is laid down that "an 'abducted person' means a male child under the age of sixteen years or a female of whatever age who is, or immediately before the 1st day of March, 1947 was, a Muslim . . ." We have been told here that there are agreements with the other Dominion and we have to honour them, that there is a Pakistan Ordinance as well and as far as possible we have to conform to that. Really, I fail to understand why this 1st day of March 1947 was accepted by our representatives for both the Dominions. It is common knowledge that abductions began in Pakistan on the 1st of March: in Rawalpindi and Frontier districts, large number of females were abducted there. It is also common knowledge that there was no trouble here in India till the 1st of August. I enquire from the hon. Mover, what is the fate of those females? He might say: "the number will be very small" but that is not the question, whether it be small or great. What about those females, Sir, who may have remained here during the 1st of March and

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1st of August till trouble began here, who may be Muslim girls and who might have married non-Muslim boys voluntarily and on their own accord. They are covered by this because one date applies to both the Dominions. When there was no abduction, no force used, no compulsion of any kind, everybody knows it, that some girls of one religion do go and marry young men of the other religion, that has been going on and when that is the case what would be the fate of those girls who married non-Muslim boys during this period from 1st day of March 1947 to 1st day of August 1947?

Then Sir, another point has been dealt with by my hon. friend Pandit Thakur Das Bhargava, and now it is proposed to bring in this latest date also—1st of January, 1949, but in the Bill as it has been placed before us, it is curious that no ultimate date was put down here, while clearly in the Pakistan Ordinance the 1st of January had been put. It is not known whether it was deliberate or it is an inadvertent omission, that is being made up now. Then my friend had referred to the extraordinary powers that under this Bill an officer of the rank of Assistant Sub-Inspector has. I agree with him, but I want to point out here in addition that it is not only the rank of an Assistant Sub-Inspector that comes in, but further on it reads . . . "or any other police officer specially authorised by the Provincial Government in this behalf," and so even a Head Constable may be authorised and he may go without any hindrance to search any premises, drag out any woman and bring her to the transit camp. This provision, certainly, is very objectionable, and I feel that the hon. Mover should look into it seriously and consider how it can be amended.

Then, Sir, we have been told that our legislation should be in accordance with the agreements that we have made with Pakistan, as also with the ordinances that they have promulgated. But in clause 8 I find while their ordinance contains only the sub-clause (b) where the jurisdiction of the court is barred, we have over-done ourselves in enacting sub-clauses (a) and (c) as well. In sub-clause (a) we say that courts would be barred from entertaining or adjudicating upon any question whether a person is or is not an abducted person. Now, this goes very far. It is only the tribunal that has to decide when a question arises whether a person is an abducted person or not, and the tribunal—perhaps that word sounds very high, but that tribunal consists of the S. Ps. of the two Dominions.

Sjt. Kuladhar Chaliha (Assam: General): Is that the practice?

Sardar Hukam Singh: Yes, we have been told that that is the agreement. It is a fact that this tribunal would consist only of the Superintendents of Police of the two dominions. When that is the case and the whole question of abduction is to be decided by that tribunal alone, I feel . . .

Sjt. Rohini Kumar Chaudhuri (Assam: General): On a point of information; is there any agreement between the two governments that the tribunals shall consist only of the Superintendents of Police?

The Honourable Shri N. Gopalaswami Ayyangar: Yes, that is the agreement today.

Sardar Hukam Singh: Sir, I was submitting that I fail to understand when such is the tribunal which is to decide about the fact whether a person is abducted or not, why the jurisdiction of courts should be barred altogether on that point.

Sir, there are other things as well which I will move when this Bill is taken up clause by clause. I again repeat that while I support the motion now put

before the House, I voice the feelings of all Members that are here and that are outside that they have a serious complaint that our Government's policy has been too weak, too halting and that it has not satisfied the public so far

Shri Brajeshwar Prasad rose—

Mr. Deputy-Speaker: I find a number of Members rising. I call upon Mr. Kapoor.

Shri Jaspal Roy Kapoor: Sir, I am grateful to you for calling upon me to speak on this subject; and I hope my hon. friend Mr. Brajeshwar Prasad will not accuse me of having abducted his time.

Sir, I welcome this Bill because I am in full sympathy and complete agreement with the objects underlying it, and the reasons therefor. But even then I think this Bill, if it is to serve its purpose, needs considerable improvement. I am afraid, Sir, the Bill in its present form, is not likely effectively to serve the purpose it is intended to, and it may even lead to results which, I am sure, its sponsors do not desire.

Sir, I had given notice of an amendment to the effect that this Bill be referred to a select committee so that its various provisions could be thoroughly analysed and scrutinised there. But then I have given up the idea of moving that amendment when I found that hon. Shri N. Gopalaswami Ayyangar had tabled a number of amendments which I think go a considerable way to meet the view-point of many of us who would like this Bill to be suitably amended and improved. I hope, Sir, that my hon. friend Shri N. Gopalaswami Ayyangar would not stop at that, but that during the course of this discussion, he would find it possible to accept some other amendments also that may be moved. He is always sweetly reasonable, and I hope he will continue to be reasonable in spite of any provocation that any speeches that may be delivered here may give him.

Sir, the object of this Bill is to recover and restore abducted women and children who were abducted during the course of the communal disturbances in the year 1947. As we take our minds back to the period immediately following partition, we begin to shudder. Many a heinous crime was committed, many an inhuman atrocity was perpetrated, which should make us hang our heads in shame. True it is that the atrocities and the crimes committed in the other dominion were of a much greater magnitude, they were of a worse type. Only this morning we were told by the hon. mover that in the case of abducted women of Kashmir, they were paraded in the streets and they were sold to the highest bidder. But, Sir, that is hardly any satisfaction for us, that the crimes committed elsewhere were greater in magnitude and were more heinous. So far as we are concerned, we have got to admit that our people in some parts of the country also behaved in a manner in which

they should not have. I therefore submit that the object of this Bill 4 P. M. is laudable and one which every Member of this House will surely agree. It is also apparent from the fact that the two previous speakers, though they vehemently criticised the various provisions of the Bill, have lent their wholehearted support to the objects underlying this Bill.

We know that the crimes committed were crimes against humanity. Providence will never forgive those who have been guilty of them and we must do everything that lies in our power to restore the abducted women and children to their relations. We must also do everything in our power to rouse public opinion against such offenders. The least that the offenders could now do to expiate their sin and crime (for it is both a sin against God and a crime against

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humanity) is to voluntarily restore the abducted women and children who are still in their custody. So we must rouse public opinion in that direction. The parents, guardians and relations of the abducted women and children are languishing and pining to have back their dearest and nearest relations. Imagine for a moment how great and overwhelming must be the joy of those persons whose nearest and dearest relations had been snatched away from them when they are now restored back to them. What unspeakable and inexpressible joy must it be of those persons who have been virtually under confinement for over two years when they are restored to their own families. So we must do everything in our power to bring that joy and happiness to those persons.

This morning Shri Gopalaswami Ayyangar referred to the noble band of social workers who have been doing a great and humanitarian service in this direction. He bestowed well deserved praise on them. No praise would be too great to be bestowed on that noble band of workers and I associate myself with all that has been said about those workers by Shri Gopalaswami Ayyangar. I see sitting over there the noble lady, sister Mridulaben Sarabai and I would like that we must record here our appreciation of the very valuable service which she has rendered to humanity. It may be that some . . .

Pandit Hirday Nath Kunzru (U.P.: General): On a point of order, Sir, is any Member of this House entitled to refer to any person sitting in a gallery of this House?

Shri Jaspat Roy Kapoor: I am sorry, Sir, if I have erred in this respect. I am prepared to take lessons in parliamentary practice from my more experienced friend Dr. Hirday Nath Kunzru.

Shri M. Tirumala Rao: Is not a person entitled to refer to any other person by name, though in the gallery?

Mr. Deputy-Speaker: But he need not point to any person sitting in the gallery.

Shri M. Tirumala Rao: He has given the name only.

Shri Jaspat Roy Kapoor: I am obliged to my friend Mr. Tirumala Rao. I had pointed to nobody; I had only named the person. I thought of the noble service which she and her devoted comrades have been rendering in this cause. I can only wish well of her and her band of good workers. May all success attend their efforts.

But, Sir, neither the good services of this noble band of workers nor those of others can be successful if we merely sit expecting the abductors to return the women and children. To help this noble band of workers we must enact the necessary but reasonable legislation. But while attempting to enact legislation on this subject we must proceed with caution and care. This matter of enacting the proper legislation is beset with difficulties, it bristles with impediments and it is also a delicate affair. We will therefore have to proceed with great care and caution in this matter. In our enthusiasm to do the right thing we should not go off our head. Let not our enthusiasm to do the right thing get the better of our judgment. While we must be anxious to make a legislation which will effectively serve the purpose in view we must also see that we are not at the same time hard on anybody else. The legislation must be fair, just and equitable. Judged from this standard I find that this legislation is very defective and therefore it is necessary to suitably amend it.

The object of this legislation is to recover abducted women and children and restore them to their relations. The object is to free women and children

from their virtual confinement and set them at liberty, so that they may once again live the life of free persons. While this is the object we find that the Bill has been so framed that it virtually ignores the views and wishes of those on whom liberty and freedom are sought to be conferred.

What do we find in this Bill? We find that after release they will have absolutely no say in the matter of the place where they are to live, in the matter of their companions with whom they are to live, in the matter of the Dominion where they would like to live and in the matter of the custody of their children, viz., with whom such females would like to leave their children who were born after the 1st March 1947. In the matter of place of residence, choice of companions for life, in the matter of custody of children these women have been given no voice or say.

As has been pointed out by the previous speakers, what is the procedure laid down in this Bill with regard to the recovery and restoration of abducted women? It may enter into the head of an assistant sub-inspector or for aught we know, of a mere constable, who may be authorised by the provincial government, that he must enter a particular house and he is authorised to enter it at any hour of the day or night and catch hold of any woman whom he thinks is an abducted person. The woman is not entitled to have any say in the matter. No enquiry is to be made by the police officer, the other inmates of the family will have no say in the matter; perhaps if they say anything they will immediately be hauled up as offering obstruction to a police officer in the due discharge of his duties. Immediately thereafter that woman is to be sent over to a camp, as if the police officer had recovered some stolen property which was to be restored to the rightful owner. These women under the Bill are going to be treated as mere goods and chattels, like stolen goods, because immediately after recovery they are to be sent over to the camp. What is to happen to them in the camp? They may be there for some time, it may be for a day, or even a few minutes. There is no limitation or restriction with regard to time after which the woman is to be handed over by the camp commander or person in charge to some other person who may be considered duly authorised in this behalf by the provincial government. That particular person to whom the woman is handed over has thereafter to send her away out of India. The woman will have absolutely no say in the matter. She is to be given over to her relatives if there be any. But if there are no relatives of her what is to happen? Even then she is to be sent out of India to Pakistan, or it may be even to Timbuctoo. For it is not laid down in the Bill that she is to be sent to Pakistan—she may be sent to any part of the world where she may not have any relation whatsoever. She will be forcibly and bodily sent out of India to meet such fate as may await her there.

Of course it may be said that I am arguing theoretically and in a hypothetical manner, that it is never going to happen, that a Muslim woman recovered here is not to be sent beyond Pakistan. Possibly it may be so; certainly it will be so. Even so who is there to look after her in Pakistan if she has no relations? She may be quite comfortable and happy here and anxious to live here. I admit there may not be a very large number of such cases. But even if there are some cases—and there are surely some, we know there have been such cases, and there will surely be a good many hereafter—even in such cases those women are to be forcibly and bodily removed to Pakistan. Their entreaties, wailings and sobs will be absolutely of no effect if the provisions of this Bill are allowed to remain as they are. I ask in such cases shall we be doing any good to the recovered women, shall we be conferring liberty and freedom on her if we deny to her the right to choose the place where she would live, the persons with who she would like to live, and the right to

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decide as to where her child is to be kept, with her or with the person whom she might have married? In our Constitution we have guaranteed Freedom and Liberty to women as much as to men. I ask is this the way in which we are going to bestow Liberty and Freedom to the recovered women? I would particularly appeal to you, Sir, and to the lady Members to come to the rescue of such rescued women who would like to stay in this country and who would like to stay on with the companions of their own choice in this country but who will be prevented by the provisions of this Bill from doing so.

Sir, it is a matter of no little surprise to me that this Bill should contain such provisions when it has been sponsored and has originated from the Ministry of External Affairs which is presided over by our hon. Prime Minister Pandit Jawaharlal Nehru who is an ardent advocate of the liberty and freedom of women—an ardent advocate to such an extent that he would risk his Government if the Hindu Code Bill is not passed in the manner he would like. I wish the hon. Prime Minister may not only help Hindu women to secure divorce from their husbands but that he may at the same time help recovered Muslim women to have the freedom to select the place where they would like to live and the persons with whom they would like to live.

Shri Algu Rai Shastri (U.P.: General): And also secure the release of Hindu women in Pakistan.

Shri Jaspat Roy Kapoor: So far as that is concerned, our hon. Prime Minister might plead his inability or difficulty.

Shri Algu Rai Shastri: Why should he?

Shri Jaspat Roy Kapoor: My honourable friend Shastriji might put that question to the hon. Prime Minister as to why he should plead his inability. I am trying to give an answer on behalf of the hon. Prime Minister to the best of my ability.

Then there is one point with regard to children which may have been born of the so-called abducted women after 1st March 1947.

Mr. Deputy-Speaker: Can we not take up these matters when we come to the various clauses? I think enough discussion has taken place. May I suggest one course? A number of hon. Members are anxious to take part in this debate. There are a number of clauses to the Bill and there are various amendments that have been tabled. As and when a clause is taken up or an amendment is taken up I shall so arrange that those who have not taken part in the discussion are given preference so that on the whole all Members who want to take part in the debate on this Bill will have a chance. Otherwise if at the preliminary discussion itself a number of hon. Members speak and once again come in during the course of the discussion on the several clauses there may not be sufficient time and we will have to get hustled. I have given preference to those three hon. Members who had tabled motions for reference of the Bill to Select Committee. If the House is willing I shall conclude the general discussion with this and put the motion for consideration to vote. (*An Honourable Member:* No.) I am only making a suggestion subject to the approval of the House. Then, as we take up the different clauses, it will be open to any Member to speak on the clauses, and he need not confine himself to the issue of that particular clause. All that I am concerned is that it should be within the four corners of the Bill and may refer to any matter which is relevant so far as this Bill is concerned. And I will try to allow an opportunity to all Members who are interested in this Bill. That means, if the House agrees,

will close the general discussion at this stage and while considering the different clauses also I will allow a general consideration of the provisions of the Bill.

Prof. Shibban Lal Saksena: May I submit that we have the general discussion first and then the clauses may be discussed in greater detail later?

Mr. Deputy-Speaker: Of course, that is the ordinary course.

Shri Ajit Prasad Jain (U.P.: General): I submit that the general discussion may be allowed now but no reference to particular clauses may be made, because if you allow general discussion when particular clauses are being discussed, it will set up a precedent.

Mr. Deputy-Speaker: Very good. I shall allow hon. Members to go on. But at least one thing may be observed, that is in the course of the general discussion individual clauses need not be referred to.

Shri Jaspat Roy Kapoor: Sir, I will fully respect your ruling. With your permission I would, however, submit that I ventured to go into a little detail because I may assure you that it is not my intention to move all the large number of amendments which I have tabled, and I think many other Members also would not be moving all the amendments that they have tabled. There was a sort of understanding on the subject and I think much of the time which might otherwise be taken in moving those amendments would be saved. I would be very brief hereafter and I would only refer to one matter to which attention had been drawn by my hon. friend Shri Gopalaswami Ayyangar this morning. He said that this Bill is the outcome of an agreement arrived at between the two Dominions. Let us see whether in the agreement that was arrived at between the two Dominions there was anything which can warrant the procedure which has been laid down in this Bill the implication of which is that recovered women will have absolutely no say in the matter. May I with your permission refer to two clauses in the agreement arrived at between the two Dominions on the 11th November 1948? Clause 5 of that agreement says:

"In the case of women recovered in one Dominion unwilling to proceed to the other Dominion, the S. P. of the recovery squad of the Dominion in which the woman was recovered may permit the relatives of the recovered woman to visit her in the camp located in Lahore or Jullundur, as the case may be."

Yet again, in clause 8 of that agreement we find it mentioned that:

"After the recovered woman is brought to the Provincial Transit Camp at Lahore or Jullundur each doubtful or resisting case will be enquired into and resolved by the S.P.s. of the two Dominions jointly."

So, this agreement envisaged that there may be many unwilling and resisting cases and obviously, according to the implications of these clauses, such women shall not be forcibly sent away to the other Dominion or out of the Dominion from which they have been recovered. I admit that this agreement will continue to be observed but my submission is that these clauses or something akin to these clauses should have been incorporated in the Bill itself so that it could have had a mandatory effect.

Sir, while on the question of the agreement, I would submit that as has already been pointed out, while our country enacted legislation immediately after this agreement was entered into, in the month of January 1949, so far as the Pakistan Government was concerned they slept over the whole affair for five months. Five months is a long period; it may not appear to be a long period to my hon. friend Mr. Gopalaswami Ayyangar, but may I ask whether this situation will last for years and years together? The earlier stages of this

[Shri Jaspat Roy Kapoor]

question are of greater importance, of more vital importance than the subsequent stages. For full five months the Pakistan Government slept over the whole affair. The only man. If we trace the history of this question and in particular bear in mind the figures that were given to us this morning by the hon. Mover, we will easily come to the conclusion that the Pakistan Government has not been playing the game and has not been doing its duty and its attitude has been throughout unhelpful. When I looked at the agreement with reference to the figures which the hon. Mover gave us, I was at once convinced as to the reason why Pakistan has been changing its attitude from time to time. It was pointed out this morning by the hon. Mover that in the early period, that is up to February 1948, the recovery from Pakistan was of a very satisfactory nature. What was the reason for it? I find the reason in the minutes of one or two of the Inter-Dominion Conferences that were held. As my hon. friend Sardar Hukam Singh pointed out, the original agreement was that the military of one Dominion shall be operating in the other Dominion for purposes of recovery. Probably this went on up to 15th March when there was again a conference between the representatives of India and Pakistan. The stand which the Pakistan Government took on that date was to the effect that the military squads of one Dominion shall not be allowed to operate in the other. What was the reason for that? Obviously, the reason as we find from the figures given by the hon. Mover was that up to the end of February recovery from Pakistan was very satisfactory. Obviously the Pakistan Government got alarmed at this that such a large number of abducted women and children had been recovered because of the presence of the troops of the other Dominion. They said, "No, hereafter it shall not be open to the troops of one Dominion to operate in the other Dominion". What do we find is the result of it? Thereafter the process of recovery became very slow. But then even while this arrangement was given up of troops operating, one other thing at least was agreed to, that the police of one Dominion could operate in the other. This arrangement went on up to October 1948 and we find that in the subsequent period, that is after March 1948; though the results were not very satisfactory yet they were not absolutely bad. Then the Pakistan Government found that this arrangement too was not convenient to it and therefore we find that in the month of November they insisted on a new arrangement to which our Government had to agree. It was agreed that the responsibility for the recovery of abducted women will thereafter be that of the police and the civil authorities of the Dominion in which the abducted women were known to be residing.

[At this stage, Mr. Deputy-Speaker vacated the Chair, which was then occupied by Shri S. T. Krishnamoorthy Rao (one of the Panel of Chairman).]

Sir, from all these facts and from the different positions which Pakistan Government took in respect of this question from time to time, it is absolutely clear that the intention of the Pakistan Government was not an honest one. I am sorry to have to use these rather hard expressions, but then there are occasions when nothing short of such hard expressions can adequately express one's views and feelings in the matter. So, it is apparent that the intention of the Pakistan Government was not honest from the very beginning. Otherwise there is no reason why the arrangement which at one time was satisfactory and led to satisfactory results should have been given up at another time and why even a modified arrangement which led to results though not satisfactory but were still not very bad, should have been given up. The result is that now we find there is hardly any recovery from Pakistan. May I ask why for all these five months the Pakistan Government did not promulgate the Ordinance?

Even when they did promulgate it in the month of May, what do we find to be the result? Thereafter only about 300 women have been recovered from Pakistan though we have been able to recover as many as 700. That shows that we are particular and zealous in the matter, and rightly too. Our enthusiasm is as it ought to be, but we find that the Pakistan Government is not at all playing its part. We must take note of it and devise ways and means to put pressure on Pakistan Government to take necessary steps to recover and restore Hindu and Sikh women and children.

Sir, I will take only a couple of minutes more to draw the attention of the hon. Mover of the Bill to the fact that the scope of this Bill has been considerably widened. The Ordinance enacted in the month of January 1949 was not made applicable to the United Provinces or the United States of Rajasthan, but in the subsequent Ordinance promulgated in the month of June these two units were also brought under the purview of the Ordinance. There seems to be absolutely no justification for it. From the figures which have been supplied, we find that only about ten women were recovered from any portion of India other than Eastern Punjab during over a year and half. May I respectfully enquire from the hon. Mover as to why in this present Bill also U.P. and Rajasthan should be included. It is not that I do not want abducted women from U.P. and Rajasthan to be recovered, but then when we know that there has been no abduction from those places, why should the sword of Damocles be hanging over the head of U.P. and Rajasthan?

I would not refer to any other question excepting one which has already been referred to by my hon. friend Pandit Thakur Das Bhargava, and that is, with regard to the taking away of these questions from the jurisdiction of the law courts. That is a subject which we must not lightly treat. For some time past, we have been finding a tendency on the part of the Government to remove many a thing from the jurisdiction of the law courts and vest the executive with all sorts of powers. That is a very unhealthy thing. That is a thing which we should not tolerate and must protest against. What, after all, are our law courts there for? They are meant to decide what may be referred to them according to the law of the land and I see absolutely no reason why in season and out of season we should be laying down in various legislations that law courts shall not have jurisdiction over various matters. That is a thing to which we should not agree. Of course, I admit that the hon. the Mover has by his new amendment to article 8 tried to take away partially the stings of this provision, but then I would very much wish that the amendment of my hon. friend Mr. Mahavir Tyagi seeking deletion of article 8 may be accepted. With these words, I support this measure.

Shrimati G. Durgabai (Madras: General): Sir, I rise to give my wholehearted support to the Bill under consideration. It seeks to provide for the continuance of the recovery activity of abducted women and children. It also aims at providing for a legislation of a more permanent type. The House is aware that an Ordinance of the Government is going to expire and this legislation is going to take its place. I plead for the continuance of the recovery activity, not only because of the fact that the Ordinance is going to expire and therefore a law has to be made but because this legislation aims at restoring the status to the woman which she had before the partition and the disturbances and which she lost thereafter—whether she be a Hindu or a Muslim, whether she be a citizen of India or of Pakistan. I plead for the unanimous support of the House for this Bill, because its aim is humanitarian, it is based on humanitarian grounds and I do not want this Bill to be treated as a political issue, but it should be placed above power politics and inter-Dominion bickerings. I plead for support to this Bill merely on humanitarian grounds.

[Shrimati G. Durgabai]

I heard it argued by certain Members that our Government is weak and that Pakistan is not going to give back the women to us and therefore why should we give Muslim women back?

An Honourable Member: Nobody said that.

Shri Krishna Chandra Sharma (U.P.: General): The meaning was that.

Shrimati G. Durgabai: The argument advanced is—I have heard it—why should we not keep the women that we are able to recover until we get an equal number from Pakistan in exchange? I ask you: is this policy of tit for tat, of retaliation, good or in the interests of this nation?

Sardar Bhopinder Singh Man (East Punjab: Sikh): Certainly.

Shrimati G. Durgabai: Does it enhance the prestige of this country? Whither does it take us? (*Interruption.*) I plead for the protection of the Chair to go on uninterrupted. The hon. Members will have their chance.

Sjt. Rohini Kumar Chaudhuri: I seek your protection.

Shrimati G. Durgabai: Yes, I will give you.

It is true that it is now two years since the original crimes were committed. It is also true that much time has been taken in negotiations and conferences at high level. But we know the value of the time involved in this work. I wish to associate myself with the sentiments expressed by the hon. Members in regard to the courage and patience shown by those social workers who have taken up this work. But for their patience, I think we would not have been able to achieve these results, of which we are proud. I also pay my humble gratitude on behalf of the Women's Movement of this country to the Government for having taken up this humanitarian work and also for having provided facilities for this recovery work to be carried on effectively.

We have reason to believe that the results which we have achieved so far in our Dominion are very satisfactory. Of course, it is natural that when the results are not quite complimentary on the other side, doubts should arise in our minds: Why should we take up this activity? Is the responsibility that we have undertaken worth our while? Questions are also asked: Since these women are married and settled here and have adjusted themselves to the new environment and to their new relatives here, is it desirable that we should force them to go back? It is also argued: These women who have been able to adjust themselves to their new surroundings are refusing to go back, and when they are settled, is it desirable to bring suffering and misery on them by asking them to go back? These are the questions we have to answer. May I ask: Are they really happy? Is the reconciliation true? Can there be a permanent reconciliation in such cases? Is it not out of helplessness, there being no alternative, that the woman consents or is forced to enter into that sort of alliance with a person who is no more than the person who is the murderer of her very husband, her very father or her very brother? Can she be really happy with that man? Even if there is reconciliation, is it permanent? Is this woman welcomed in the family of this abductor? In many cases, is it not true that this abductor has got many wives and if not many wives but one wife, and many children? (*An Honourable Member:* No.) Is she not the victim of every day quarrel in that house? The social workers associated with this work know the psychology of these abducted recovered women fully well. They can testify to it that such a woman only welcomes an opportunity to get back to her own house.

Sir, we the social workers who are closely associated with the work are confronted with many questions when we approach a woman. The women say: "You have come to save us; you say you have come to take us back to our relatives. You tell us that our relatives are eagerly waiting to receive us. You do not know our society. It is hell. They will kill us. Therefore, do not send us back." This is the argument which we have heard whenever and wherever we have approached a woman and requested her to go back to her relatives.

Those who are aware of the constant, continuous and efficient effort that has been made, will recognise that they have brought forth very good results. It is true that when there is a change of heart on the part of her relatives, when she is convinced, and when she is brought face to face with her relatives, she is a changed person. The so called refusal to go back of which much has been made.....

Shri Algu Rai Shastri: Will some enthusiastic workers go to Pakistan to recover our sisters and mothers and their children?

Shri R. K. Sidhva (C.P. and Berar: General): Already they are doing that.

Shrimati G. Durgabai: Sir, it may be that she has refused to go back. But on what grounds is this refusal based? The refusal is based on a fear complex, on the fear of social customs and on the fear that her relatives may not welcome her back.

It is said, Sir, that in many cases the women are married and settled down and have got children. Why, it is asked, should they be sent back? I ask you, Sir, "Is it not true that in many such cases the woman has become a victim of the domestic quarrels?" The first wife does not like her. The woman may have changed hands many a time. Is this not true that she is sold? Is it not true that she is used only for commercial purposes? I ask "What right has this abductor to keep the child?" The child has got to go with the mother. Is it not true that the woman is afraid that if she takes back the child the child and she will not be welcome in the family. If one were to analyse and understand he will find that these are the reasons why women who are recovered refuse to go back. Their refusal could only be explained on this ground.

Sir, politics has been imported into this matter. I have already explained that matter. If only Pakistan does not act like us, if they have not kept their machinery in full swing, if their social workers are not of our mind, if there is no change of heart and change of policy on their part, is there any reason why we should adopt a similar policy? I have already answered that question. Let us not look at this matter from that spirit of retaliation. Let us look at this matter from this angle: if there is one woman here to be restored, this activity must continue and our Government must come forward to her aid and get her restored to her relatives.

Again, Sir, it is asked that there is the ordinary law of the land which is quite sufficient to deal with this matter. Why should you create a machinery of this type? But, Sir, I say that the recovery activity is a complicated one. The crime of abduction of innocent women and children is a serious one and as such should be punished severely. From that point of view this Bill is a very harmless one. It does not try to punish even the criminal abductor, the reason being that thereby we would be defeating the very objects we have in view, namely rescuing of abducted women. The abductor adopts all sorts of tricks to hide the women; he tries to see that the woman is not sent back. He tries to take shelter under the ordinary law of the land by converting himself to the religion of the woman. Sometimes the woman is hidden in a place. We have, therefore, necessarily to provide safeguards for all this. It is very

[Shrimati G. Durgabai]

necessary that the Police should have some kind of powers to go into the house where they have reason to believe that the abducted woman is hidden. The hon. Minister has agreed to some amendments, but I should point out that no major charges should be made in the Bill, because it is designed on the basis of the proposals contained in the agreement.

Sjt. Rohini Kumar Chaudhuri: On a point of information, Sir, May I ask the hon. Member to tell us in a calmer moment whether she advises us to disbelieve every woman when she says that she does not want to go back to Pakistan?

Shrimati G. Durgabai: I think the hon. Member who has made the point perhaps believes that generally the women are such and their nature is such that they are to be distrusted, not only by men, but mutually also. That is not the case—not that I believe or disbelieve in this case. I have already explained the matter and when a woman says that she refuses to go, I have already given the reason why she does so, and on what grounds her refusal is based. (*An Honourable Member:* Not in every case). Therefore, her refusal is not to be taken as her determination not to go back. If favourable conditions are created, if she is convinced that she would be welcome in her original home and that she would be restored to her original status, she would be only too willing to go.

Sir, I do not want to refer to the various other details, because the Chair has already made a suggestion that those Members who have given amendments will have another opportunity. In this connection I feel that no time factor should enter in regard to these matters. The abducted and recovered woman is such, her psychology is such that she behaves in a semi-mad condition. So sometime must lapse before she is restored to her normal senses. Sometimes she makes conflicting statements. Sometimes she changes her opinions constantly. So no time limit should be prescribed, as public opinion has to be created for her relatives to accept her and welcome her back to her home. I have put in an amendment to this effect which I propose moving when the time for it comes. My amendment would be that it would be in force till the 31st March, unless extended by a resolution of Parliament. When I move the amendment I shall fully explain the reasons for it.

I do not think that hon. Members would have any objection to accord a unanimous support to this Bill. Sir, I would again urge upon them not to raise any obstacles, but to view this matter not in a spirit of retaliation, but on humanitarian grounds and humanitarian grounds alone.

Shrimati Purnima Banerji: Sir, I am very pleased to note that this Bill has not aroused any opposition on the ground that results from Pakistan regarding the recovery of women from that part of the country are not in the same proportion as is taking place in India. Sir, after the partition of this country, one of the most heinous crimes, and one of the darkest chapters of our history, has been the abduction of women and the troubles which have come upon their heads which were not of their seeking. Sentiments have been expressed in the House that woman is entitled to the protection of her country and her countrymen, and this Government, even though it may be helpless to enforce any very strong measures regarding the recovery of women from Pakistan, should make no bones about this matter and should declare its firm decision on the subject and see that this issue is one in which there could be no compromise. I do not wish to rouse any ill feelings between two neighbouring countries but I think we have a right to expect of ourselves firm action, as also from Pakistan.

Sir, there has been a question with which my esteemed colleague, Shrimati Durgabai, has dealt and I also would like to deal with that aspect of the matter myself. We are all agreed that women who have been abducted under the most hateful circumstances by men who have killed their husbands, their families, would under no circumstances agree to set foot in that family, or be agreed to be absorbed in it. All such women must be rescued. That is the intention of the present Bill; but I would like to bring to your notice a different type of case which needs our special attention and I would like to suggest that after the lapse of full two years, there may be cases—and there have been cases—when girls of the tender age have been abducted or rescued by young men of the same age. Time had passed and in between they have lived in association with one another and developed mutual attachment as young couples. They deserve sympathetic consideration and such girls should not be made to go back to countries to which they originally belonged merely because they happen to be Muslims or Hindus and merely because the circumstances and conditions under which they had been moved from their original homes could be described as abduction. I am sure my friend, Shrimati Durgabai, will have no objection to such cases receiving sympathetic treatment and consideration from the Tribunal which is going to sit in judgment and decide upon these cases.

Sir, I fully support the objections taken by my colleague, Pandit Thakur Das Bhargava, regarding the wide powers given to the police under this Bill. I feel though I do not know what social workers who are in actual charge of the work feel, and much depends on their views, but nevertheless I feel that after the lapse of two years when the fever and fret of disturbances caused has subsided, perhaps the situation is such, when we can use the normal channels of the law with greater effect in dealing with abduction cases of this nature that, in my opinion would give greater safety and liberty to the individuals who are brought under the clutches of that law but who may not be offenders. I feel, Sir, that to indemnify police officers and to allow even Asst. Sub-Inspectors to effect arrests without warrant, these are very wide powers which no legislature should freely give to any police authority very freely. I will not press that point very much because at the amendment stage, there is still an opportunity to deal with necessary amendments.

Before I close, I would like to add a word about the Tribunal which you are to constitute. I believe that Superintendents of Police from both Dominions are to sit on this Tribunal. I fully agree that a high official of that nature, knowing the conditions, the police conditions, of the two Dominions should be consulted, who would know also the circumstances under which women had been abducted and the circumstances under which they should be released. Along with them, to accommodate such human cases where people have developed genuine attachment and do not want to leave each other, I believe that in this Tribunal there should be associated an elderly matronly person, like Shrimati Rameshwari Nehru who has worked very well in this Department. I believe Sir, Shrimati Rameshwari Nehru takes this view of abducted persons of this category and if a person like her has any difference of opinion with the procedure we have adopted in this Bill, I personally feel that her point of view should be respected. My point is that there should be persons on the Tribunals who would give sympathetic treatment to cases of genuine attachment, cases in which two persons would wish to continue to live as man and wife. With this qualification, I fully support this legislation and would desire that every woman who has been abducted should be taken back to her home. There is no question of retaliation; there is no question of how many people Pakistan has recovered and how many people India has recovered. It is absolutely the right of every woman to go back to her original home. Sir, I support the Bill and I hope that the wide powers given to the police will be amended suitably when the clause by clause consideration takes place.

Mr. Chairman: Before I call upon another Member to speak, I would like to know whether Members would wish to continue till 6 o'clock. The House knows we are pressed for time.

Shri H. V. Kamath (C.P. and Berar: General): We have a Committee meeting after five.

Mr. Chairman: If the majority is willing to continue, we will continue.

Shri Brajeshwar Prasad (Bihar: General): Sir, I had no intention to take part in this debate, but certain observations made by friends here have driven me to give expression to my own ideas on this subject. My friend, Mrs. Purnima Banerjee, is of opinion that in cases where there is a natural attachment between the abductor and the abducted woman, special consideration should be accorded to her. May I ask whether the law recognises, the Government of India recognises, any such marriages. The law does not, and so if she continues here, she will continue here only as a prostitute and a concubine. Does anybody want them to continue here merely as concubines and prostitutes? In my own mind, I am clear that those ladies should be sent back to Pakistan where they will be accorded, I am certain, a place of honour. Our society is constituted on a different basis and is different from Muslim society. My friends, Pandit Thakur Das Bhargava and Mr. Jaspat Roy Kapoor, made the suggestion that the children of such abducted women should not be allowed to go back to Pakistan. May I know whether these children are regarded as legitimate children in the eyes of the law? They are illegitimate children in the eyes of the law. The law will not recognise these children and therefore these children will remain illegitimate children. Our Hindu society has no place for illegitimate children. This is a standing blot on Hindu society?

Sir, I do not know how a child born of a man and a woman can ever become illegitimate. This is a notion which I have not been able to grasp, but still knowing full well the attitude of the present Government, knowing full well the attitude of the Hindu society, we have to take the facts as they are and the illegitimate children if they are to live in India, they will remain as dogs, as beasts.

Shri Ajit Prasad Jain: There are thousands of abducted Hindu women and children in Pakistan who have been or are being brought back to India. Is it your contention that they will not be welcome or given a decent place in the Hindu society?

Shri Brajeshwar Prasad: I do not know how this Bill has anything to do with that. It does not deal with that question. If that question is also brought before this House, probably I will be in a position to give an answer to this question as well. I have got nothing in my mind at present as to what steps we should take with regard to persons who might come here from Pakistan. That is purely an extraneous issue and I cannot go beyond the limits of the present Bill.

Sir, I feel that the abductors should also be sent to Pakistan, because they should have no place in the Hindu society. He is a potential danger to civilization and he belongs to a class-less society. Given an opportunity he will abduct Hindu women.

Sardar Bhopinder Singh Man: 50,000 Muslims will come to India by that argument.

Shri Brajeshwar Prasad: There are four crores of Muslims in this country. It will not matter much to me; at least I hope it will not matter to our Pandit Nehru if four lakhs of Muslims come to this country.

مولانا محمد سعید مسعودی : وہ ۵۰ ہزار جو وہاں سے آئیں گے انکے ساتھ وہ ایڈکٹرس جو ہونگے انکو یہاں کے ۴ کروڑوں کے ساتھ ملانا یہاں کے دھنے والوں کی توہین ہے۔

Maulana Mohammad Sayeed Masuodi (Kashmir State): To link those 50 thousand including the abductors, with the four crores living here is to insult the latter.

Shri Brajeshwar Prasad: As far as I am concerned, I have made this observation. I regard a Hindu and a Muhammadan as one.

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

The Assembly then adjourned till a Quarter to Eleven of the Clock on Friday, the 16th December, 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Friday, 16th December, 1949

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11.46 A.M.

INDIAN JUDICIAL PROCEDURE BILL

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

"That leave be granted to withdraw the Bill to clarify and modify the law in practice hitherto followed in Criminal applications for special leave to appeal to His Majesty in Council for Criminal cases decided by the Indian Courts, as reported by the Select Committee."

Mr. Deputy-Speaker: The question is:

"That leave be granted to withdraw the Bill to clarify and modify the law in practice hitherto followed in Criminal applications for special leave to appeal to His Majesty in Council for Criminal cases decided by the Indian Courts, as reported by the Select Committee."

The motion was adopted.

WORKERS' PROVIDENT FUND BILL

Shri R. K. Sidhva (C.P. and Berar: General): Sir, I beg to move:

"That the Bill to provide for the establishment and grant of Provident Fund to certain classes of workers by their employers be referred to a Select Committee consisting of the hon. Shri Jagjivan Ram, Shri M. Ananthasayanam Ayyangar, Shri Khandubhai K. Desai, Shri Mohan Lal Gautam, Prof. N. G. Ranga, Shrimati G. Durgabai, Shrimati Renuka Ray, Shri Satis Chandra Samanta, Shri H. V. Kamath, Prof. K. T. Shah, Sjt. Kuladhar Chaliha, Shri Sitaram S. Jajoo, Sardar Suchet Singh, Shri Raj Bahadur, Ch. Ranbir Singh, Mr. Naziruddin Ahmad, Pandit Thakur Das Bhargava and the Mover, with instructions to report on or before the last day of the first week of the Budget Session, 1950, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, this is a Bill which was moved by me in the First Reading on 11th February 1949. I moved that the Bill be sent to a Select Committee. But, at the instance of the Government, the hon. the Minister stated that the Bill be circulated for the purpose of eliciting public opinion by 30th June 1949. The Bill has been sent for eliciting public opinion. Many opinions have been received. Before giving you the result of these opinions, I would only give a brief history of this Bill which was moved in the last session.

Sir, the principle of this Bill has been accepted by this House and this Bill envisages that all workers who draw a salary of over Rs. 20 should be entitled

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[Shri R. K. Sidhva]

to a provident fund from his contribution as well as contribution from the employers. From experience, it has been seen, Sir, that the Pension Fund is not so advantageous to the employees as is the Provident Fund. Generally speaking, after retirement, the employee enjoys the Pension Fund only for five or six years, whereas he gets a better advantage from the Provident Fund. He makes a certain provision for his family after his retirement. As I stated in the last session when I moved this Bill, there is a Provident Fund Act of 1925; but its scope is very limited. It does not enable every one to take advantage of this Act. From that point of view, I have brought in this Bill.

Sir, it is an established fact that a Provident Fund should be introduced in all establishments and the Government have also accepted that policy. There is a restriction and discrimination. Only certain employees get the benefit of this Provident Fund and not all. It is therefore desirable that all the employees should get the benefit of this scheme. In all modern countries and civilised countries, this Provident Fund has been introduced. In all private and Government establishments and offices this Provident Fund Act must be extended. I want this Act to be introduced even to all Trusts including Societies, Charitable Institutions, Factories, Sheds, residential hotels, restaurants, places of entertainments, commercial firms, docks, jetties, tramways and Bus workers. It is very essential that these men who are working in the commercial establishments, and who have no advantage of any kind of Provident Fund should be enabled to have a Provident Fund. I ask, Sir, is it fair that these men who toil for a number of years, 30 or 25 years, should not get any benefit or advantage after retirement. As I stated before, it is therefore a recognised policy of all civilised Governments that there should be a measure enacted for the benefit of this class of people, which does not exist in this country. It is also felt that if there is a Provident Fund, the relations between the employee and the employer will be cordial. It is very necessary that the workers should have a living house and some kind of provision after retirement. The employee says, I am prepared to pay; let the employers also pay something towards the fund. Not only that; he is making a saving for himself; it is the country's savings; it is a national savings. The amount that would be accumulated will be invested in Government gilt edged securities. From this point of view, it is not only a benefit to the employers and employees, it is a benefit to the State. From this point of view also, I feel that nobody should object to such a measure. I was very glad, Sir, that in the last session, the House accepted the principle and sent it for eliciting public opinion.

I shall now give a synopsis of the various opinions received from the various provinces. One hundred and sixteen opinions have been received: 90 for, 21 against; five of the provincial Governments have stated that it should be a Government measure. Almost all provincial Governments have stated that the measure is desirable; they have stated that instead of this being a Private Member's Bill, it should be a Government Bill.

Sir, out of 90 opinions received, 20 have come from the United Provinces. The United Provinces Government have stated that this should be a Government Bill. Four have opposed this Bill. I will not go into the details, because all these opinions have been circulated to the hon. Members. I would only refer to some of the opinions. Some have said that the Bill must be accepted, but there should be certain modifications. Various institutions either of workers or of employers, or of Government officials have suggested various amendments to this Bill. Most of them, or rather I should say, all, have accepted the principle of the Bill and there is no question about it. I do feel that there is some justification for amending this Bill and therefore I have proposed a reference to a Select Committee. Some Workers' Unions have suggested

even further than what I have stated. They have stated 'why have you restricted to Rs. 20 only? It should be applicable to everyone. A man drawing Rs. 10 why should he be deprived of this Provident Fund.' I only bring it to the notice of you, Sir, and the hon. House that the workers are anxious not only that the Provident Fund should be deducted from persons drawing Rs. 20 and over but even from persons drawing salaries under Rs. 20. You can see the anxiety of the workers that despite their small salaries they are prepared to pay from their pocket certain amount for reserving towards their Provident Fund for their future benefit. From this point of view the House will see what great necessity this Bill is to be enacted into an Act.

Then from Bombay 8 are in favour—the Government have preferred that it should be a Government Bill—6 are against. The Bombay Trade Union Congress has stated that it should be extended to employees drawing Rs. 20 and under. C.P. is 1:1. Bengal 6 in favour and 5 against. Bengal Government also feel that it should be a Government measure and they feel that there are small factories and it is just possible that in small factories there will be great difficulty and therefore small factories should be excluded from the provisions of this Bill. Assam Government says it is a wholesome measure and should be enacted. Madras 10 are in favour, 2 against. Advocate-General says 'Should be extended to Madras—it is a good measure'. Tamil Nad Congress Committee says 'It is a wholesome measure, should be extended to Plantation.' They say 'They are suggestions worthy of consideration'. Bar Council of Madras say that they are entirely in favour of this bill. In Punjab 2 are in favour and they recommend the extension to the trade employees also. That means some of the small commercial establishments which I may have omitted in my Bill. I only want to draw the attention of the hon. Minister in charge of this Portfolio to realize how the workers are keen and some have suggested that it should be a Government measure. I would like to know what are their views about this?

Then the Chief Commissioner of Andaman and Nicobar says, 'it is a laudable

The Honourable Shri Jagjivan Ram (Minister of Labour): Is there any labour there?

Shri R. K. Sidhva: I will give it to you. The Chief Commissioner of Ajmer-Merwara says 'this must be introduced'. Bar Association says 'Bill is in the right direction'. Labour Officer says 'Desirable and necessary'. What more do you want, I ask the hon. Minister? I am coming to his own province of Bihar. I am very glad to say his province has given a very encouraging reply, compared with all other provinces. 15 have stated for. Government says—'It should be a Government Bill.' Two have stated that they are 'not in favour'. Tin Plates of India Ltd.—it is a manufacturer remember—says—'For the sake of industrial peace in the country, this Bill must be passed and is welcome'. He realizes—this man is the real employer who knows the situation—that if this Bill is passed, his industry will always work satisfactorily. He realizes that—which others do not. The Deputy Collector of Hazaribagh says 'Bill is a step in the right direction and will remove a long-felt want.' Provincial Motor Workers Union, Bihar, says 'I like the bill' the President of it says 'it should come into force immediately.' Tata Workers Union, Jamshedpur says 'As I find the scheme is better, I have nothing more to say.' The District Magistrate, Patna, says—'This enactment is essential for the betterment of employers and employees and their families.' This is the opinion of my friend the hon. Mr. Jagjivan Ram's own constituency, whom he has the honour to represent and the whole of India's

[Shri R. K. Sidhva]

labour which he has the honour to represent in this Country. Coorg District Magistrate says 'Absolutely in favour of it'. Orissa—there are six opinions in favour. Revenue Commissioner says—'He is entirely in favour'. District Magistrate, Cuttack is entirely in favour. District Magistrate, Balasore, is entirely in favour. Then there are 6 individual opinions who are interested in the welfare of the workers who have also expressed their opinion in favour of the Bill and also stated that it should be extended to other classes for which the Bill does not provide. From this you will be pleased to observe the opinion for this Bill in the country. I am very glad that this Bill was sent for public opinion. The hon. Minister has seen what is the opinion of the people. No doubt many have suggested modifications. I don't claim to be a good draftsman—I am not a draftsman. I have prepared this Bill to the best of my ability, it may be defective and I don't dispute that. There are some good suggestions made by various people. I am glad it has gone to the public and they have given their suggestion. Therefore I feel that a measure of this kind, the principle of which has been accepted by this House in the last Session, should go to a Select Committee who may curtail or expand it—whatever it thinks fit in the interest of this country. I might quote this—on behalf of Government—what the hon. Minister of State stated when I pressed this Bill for sending it to Select Committee. The hon. Shri Satyanarayan Sinha said:

"Sir I move: 'That the Bill be circulated for the purpose of eliciting opinion thereon by the 30th June 1949'."

He further said:

"I am glad to inform the House that the Government has already, as an experimental measure, introduced the system in one of the very big labour areas and the Government is anxiously watching its result. It is quite likely that the Government itself may sponsor a Bill of this nature in the next session. In view of this, I would request my hon. friend Mr. Sidhva to agree to my amendment. He has to agree formally. On behalf of the Government, I can assure the House that the Government has gone into question and as I have said, it is quite likely that the Government itself will bring a Bill of this nature in the next session."

This next session should have met ordinarily in the month of August but as we already know we were so busy with the framing of the Constitution that we could not meet in August. Though the Government have made a promise, there is no Bill introduced in this session as promised by the hon. Minister of State. Therefore I had been compelled to move this motion for referring it to Select Committee again. If the hon. Minister states even now that the Government are going to bring the measure, I have certainly no objection but I want a statement of that kind from the hon. Minister. Does the Government want to go back upon the statement of the hon. Minister of State on behalf of the Government as I read out from the proceedings? But for the request of the Minister of State then, and my acceptance of his suggestion to refer for public opinion the house would have passed it then. Even if the Bill is not presented in this session if the House has any kind of assurance that the Provident Fund Bill is going to be sponsored by Government, I shall certainly have no objection in withdrawing my motion but I want a kind of assurance because I do not want to mislead the public after inviting public opinion. I do not want the public to misunderstand my Government that we were at one time of this view and at another time of a different view. On the contrary to increase the prestige of the Government I do desire that while the principle is accepted, something substantial must come from Government and if the Government says so, I will have no objection to withdraw my motion for sending it to Select Committee. I move, Sir.

Mr. Deputy-Speaker: I need not formally put it to the House. May I know the reaction of the Minister?

The Honourable Shri Jagjivan Ram: Sir I am glad that my friend Mr. Sidhva has made a very good offer. I would have been more glad if he had not moved this motion at all.

Shri R. K. Sidhva: How it would have looked to people if I had not moved it?

The Honourable Shri Jagjivan Ram: I do not propose at this stage to examine the merits and demerits of the Bill, of my friend Mr. Sidhva. Of course I can assure the House that Government stand by the assurance given by the Minister of State at the time when the motion for circulation of the Bill was made.

As Mr. Sidhva has himself dealt with the various opinions, I do not propose to do that. But one thing has been very clear from what he has stated, that there is more or less, unanimous support so far as the provision of provident fund for workers is concerned. Many of those who have expressed any opinion on this Bill have clearly stated that there should be some provision for provident fund for the workers. The attitude of the Government, as has been indicated on more than one occasion, is that we ourselves also feel that we should make some provision for granting provident funds for the employees, not only in industrial undertakings, but also in commercial and other establishments. But before we introduce any legislation in this respect, the whole question has to be very carefully examined, from different points of view, and the most important of them being the actuarial examination of the whole question. That we are going to do.

On the last occasion I had indicated to my friend Mr. Sidhva—I am not sure whether it was in this House or somewhere else—that we are ourselves anxious to introduce a Bill to this effect. But one should not ignore the economic condition that the country is facing to-day. To-day, Sir, we are faced with large-scale retrenchment, and the primary concern of the government either in the Centre or in the Provinces, has been how to check large-scale retrenchment and how to minimise the miseries and hardships workers are put to when unemployed. So in the near future, before we can embark upon any scheme of large-scale provident fund, we will be concentrating our attention towards minimising the effect of large-scale unemployment. But this does not mean that I am trying to shelve this issue. As I have stated, I am myself very anxious that some provision should be made for the workers for their old-age, and so long as the economy of the country does not permit the introduction of unemployment and old-age benefits, this has got to be provided with by the introduction of provident fund. Sir, I do not want to dilate upon this subject. I can give the assurance to my friend and to the House, Sir, that during the course of the next year, some time in 1950, Government will try to bring in a comprehensive measure for the introduction of provident fund for all categories of employees, and the scheme will be such that it will embrace also the smaller units. By the introduction of a provident fund scheme on an industry-cum-regional basis, the employees in smaller units which by themselves may not be able to maintain or undertake the administrative expenditure necessary for the maintenance of provident fund schemes in those units may not be deprived of the benefits of provident fund. I hope, Sir, my friend Mr. Sidhva will be pleased to withdraw his Bill and give the Government the opportunity of bringing in a comprehensive measure in this respect.

Shri R. K. Sidhva: Sir, in view of the assurance of the hon. Minister I beg leave of the House to withdraw.

Mr. Deputy-Speaker: Do you withdraw the Bill itself?

Shri R. K. Sidhva: Yes, Sir,

Mr. Deputy-Speaker: Has the hon. Member leave of the House to withdraw the Bill?

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

PREVENTION OF FREE OR FORCED OR COMPULSORY LABOUR BILL.

Shri R. K. Sidhva (C.P. and Berar: General): Sir, I beg to move:

"That the Bill to provide punishment for free or forced or compulsory labour, be referred to a Select Committee consisting of the hon. Shri Jagjivan Ram, Shri A. V. Thakkar, Shrimati Purnima Banerji, Dr. V. Subramaniam, Shrimati Annu Swaminadhan, Prof. Shibban Lal Saksena, Mr. Jasimuddin Ahmed, Shri S. V. Krishnamoorthy Rao, Shri B. Das, Shri Satis Chandra Samanta, Shri Mahavir Tyagi, Shri Harihar Nath Shastri, Dr. Mono Mohon Das, Shri Upendranath Barman and the Mover, with instructions to report on or before the last day of the first week of the Budget Session, 1950, and that the number of Members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, this Bill also was moved by me at the same time, immediately after I moved the Provident Fund Bill, and it was also circulated for public opinion; and before I come to give you the report of what the public opinion is, I may say that everybody accepts that free or forced or compulsory labour without payment of money should be stopped as it is a disgrace to society. It has been admitted so in the International Labour Conference in 1930, and it was admitted by this Government also which was a party to that conference. Article 1 passed at that Conference said that each member of the International Labour Organisation which ratifies the present convention should undertake to suppress the use of forced or compulsory labour in all its forms. It further stated:

"Where such forced or compulsory labour for the benefit of private individuals, companies, or other entities than the community exists at the date on which a Member's ratification of the present convention is registered by the Secretary-General of the League of Nations such forced or compulsory labour shall be completely suppressed within a period of three years from the said date of registration of ratification."

There is no doubt that our Government was a member of the League of Nations and it was bound to abolish forced labour. Sir, I will not go into the details of this Bill or state what happened during the last session. I need only say that Member after Member spoke on this Bill and expressed his strong resentment at the continuance of forced or compulsory labour. In all five Members took part and not a single one of them opposed this Bill or even stated that it should be sent for public opinion. But the hon. Minister of State again intervened and appealed to me, but he was confronted by the hon. House which said, "No, this Bill must be passed." Then at the request of the Government I was obliged again to send this Bill for public opinion, such was the strength of opinion on this measure. I need not enter into the details of the discussions that took place then, but I will read out only two paragraphs from the speech made by Shri A. V. Thakkar, I mean Thakkar Bapa. He, as we know, Sir, is an expert on this subject, and he has also travelled all over the country and seen conditions of forced labour himself. I shall read only a few paragraphs just to refresh the memory of the House, and also for the benefit of the hon. Minister for Labour who was not present on that occasion.

Shri Brajeshwar Prasad (Bihar: General): On a point of order, Sir, where is the necessity for this Bill, when the Constitution has already banned forced labour?

Shri R. K. Sidhva: I am coming to that; please be patient a bit. I know you get up often, even when there is no point of order.

Sir, the Indian Penal Code does not permit anybody to employ free or forced or compulsory labour, but see what Thakkar Bapa says: This is what Thakkar Bapa said on that occasion:

"Sir, I rise to support the Bill introduced by my friend the hon. Member Shri Sidhva. Section 374 of the Indian Penal Code exists for the last 89 years since it was enacted in 1860. I am sorry that that section has remained a dead letter, as mentioned by Shri Sidhva. There has been only one case of offence under that Act and I believe it will remain a dead letter until something very substantial is done to mend the state of things. Those who move in villages, those who go round in the country side can observe this for themselves. This *begar* will not be seen in cities and towns. It cannot be seen by the people moving in high societies: it will be seen by people who go round the villages and go round even the tahsil towns and see things for themselves as social workers. (Prof. N. G. Ranga: "In the hills and the jungles.") Yes, in the hills and the jungles as my friend the hon. Member Prof. Ranga reminds me. In the hills and jungles I have observed it myself since the year 1920, since when I was working in the Bhil country in Gujarat. I know of a friend who had undertaken the opposition to this kind of *begar* by observing it himself and taking the lead from the head of a Bhil and putting it on his head in order to make any exhibition of it—a sort of small *satyagraha*. That was what he did in order to bring it to the notice of the public.

"Another thing which I wish to say is that I do not understand why the Government should delay this matter as we have heard from the Honourable Minister Shri Satyanarayan Sinha, the Chief Whip, I would like the Honourable Shri Sinha to say who is this special officer who is going round the whole country in order to get evidence and give a report to the Government of India. I would like to be in touch with him. As a friendly measure I would like and see what he has been able to do and what evidence he has been able to collect."

He has used still stronger language further but I do not want to take up the time of the House with it. I only want to impress upon the hon. Minister what the feeling of the House was at that time. I will state for the benefit of the House the names of some of the hon. Members who spoke on the occasion—Shri H. V. Kamath, Thakur Bapa (whom I have just mentioned), Dr. Ambedkar (who giving his views as a Minister said that he wanted to bring forward the Bill but at that time the Government did not endorse his views and therefore it was held over), the Deputy-Speaker and several others.

This is the gist of this Bill. I do not want to go into details because I know the House is more in sympathy with the Bill than myself and there is no necessity to make an appeal to the House.

Sir, I know the hon. Minister's attention has been drawn to section 23 of the Constitution, which comes into force on the 26th January, 1950. Article 23 reads:

"Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law."

Although this article has been passed and the Constitution will come into force on the 26th January 1950, it is the bounden duty of the Government to enact a law beforehand to see that the provisions of this article are strictly followed. After the 26th January this becomes a fundamental right. When forced labour is employed the man concerned will go to the supreme court and tell the court that he has been employed on forced labour without being paid anything for it. What will be the position if there is no Act. If there is an Act, the penalty clause will be there. I therefore feel that this Bill is necessary and should be passed into an Act.

Here I would like to quote what the hon. Minister said on behalf of the Government, in the last session:

"Mr. Speaker, Sir, I have nothing more to add to what I have said while moving the amendment, but I can assure again this House that there is no intention on the part of the Government to shelve this Bill as remarked by one hon. Member. I have accepted the amendment of Shri Sidhva to my amendment that the date should be reduced to the 30th of June."

[Shri R. K. Sidhva]

The hon. Minister of State had suggested September and I proposed the 30th of June. The feeling of the House was that it should be earlier and the hon. Minister on behalf of the Government accepted the date I had suggested, which only shows how strongly the House felt on the matter.

As regards the appointment of a committee of the House the feeling of the House was that there should be a committee on the matter and not an officer. Thakkar Bapa also suggested it. On this the hon. Minister said:

"As regards the appointment of a committee, I think the Government will consider it—and this is all that I can say now and most likely a committee will be appointed. What will be the composition of the Committee, I cannot tell you here, but certainly the non-officials will be associated with that Committee. I will again appeal to the Mover, he has already accepted my amendment, but there are other friends who are more loyal than the King and I think they should not stand in the way of the Mover accepting the amendment which I have moved."

The hon. Minister of State says that there are other Members coming in my way. That shows how keen they were to have the Bill passed and he is appealing to me to accept his amendment. I accepted his word but where is the committee which he promised? 30th of June has passed and no committee is as yet appointed on behalf of the Government. Am I not therefore justified in bringing this measure to draw the attention of the hon. Minister to his statement regarding the appointment of the committee? If he wants me to withdraw the Bill on the ground that he proposes to bring in a comprehensive Bill he must tell the public for the sake of the prestige of the Government. On such an important and substantial measure like this with which every body is in sympathy I cannot say at the outset that I withdraw it. If the hon. Minister says that he is going to bring a measure with regard to this I will withdraw the motion.

I would request my hon. friend Mr. Satyanarayan Sinha to remember what he said about the appointment of a committee. He has not yet appointed the committee. I do not know whether it will come into existence or not. It was the decision of the House that a committee should be appointed. They did not want an officer roaming somewhere. That was also the desire of Thakkar Bapa who has thirty years experience in this matter. I therefore suggest that if the Government is going to bring a comprehensive Bill I will certainly withdraw my Bill with the permission of the House and you, Sir. At the same time I would suggest that those who are interested in the matter should be taken into confidence before the measure is moved or the committee appointed.

The Honourable Shri Jagjivan Ram (Minister of Labour): Sir, I just want to give a brief history of what the Labour Ministry has been doing in this matter.

The question regarding investigations into the existence of forced labour was initiated by my predecessor, the hon. Dr. Ambedkar. His idea was to have an enquiry committee, which will tour round the country and submit its report and then to take such legislative or administrative action as may be necessary in the light of the report of that enquiry committee.

When I assumed charge of office I also took up that question. When the question of setting up an enquiry committee was under examination or rather the final decision was taken on it, as the House is aware, the partition of the country came about and conditions in the country became unsettled. After 1947 I again took up this question and I thought that as the incidence of forced labour in the Indian States was more than it was in the provinces it would be better to include the States also within the scope of the enquiry. But the question of the unsettled condition of the States was taken into consideration and it was thought that it would not be wise to start an enquiry

either in the States or in the provinces in the unsettled condition of the country. Therefore the idea of a Committee was postponed. But I thought that as the matter was very urgent the whole question should not be postponed and some action in the matter was necessary. So a Special Officer was appointed, not for the purpose of going round the country but for the purpose of examining the existing legislation, both Central and provincial, in this regard and to suggest such amendments as were called for, for doing away with forced or compulsory labour wherever it has been permitted by legislation. That Officer examined a mass of literature and legislation and he has submitted his report. After we received the report of the Special Officer we thought that the appointment of a Committee will unnecessarily delay the matter, because on the basis of the material that we have received from the Special Officer it is clear to us that forced labour is prevalent in the country. It is also clear to us that mere legislation is not going to eradicate this evil. A strong social consciousness among the people from whom forced labour is taken and also among the people who take the forced labour is necessary before the evil can be totally eradicated. By the way, Sir, I can mention that there are various pieces of legislation already existing in the Provinces which ban the taking of forced or compulsory labour. But the experience of any social worker or of any person who has worked in the rural areas is that in spite of the existence of these Acts forced labour is rampant. So, the mere enactment of a law is not going to eradicate forced labour. But apart from that, in the light of the report that we have received from the Special Officer, we have already taken up with the Provincial and State Governments concerned the question of amendment or repeal of such legislation as permits the compulsory or forced labour. That is one action which we have already taken.

The second point is that forced labour in different shapes and forms is prevalent in various parts of the country. Some of them have legal sanction. But the forced labour differs in form and shape in different parts of the country. As the House is aware, we have started an inquiry to investigate into the condition of the agricultural labour, and in that inquiry we are collecting details about the extent of forced labour in rural areas. We hope to complete this Inquiry during the course of the next year and then we will get some reliable and detailed data about the extent of the prevalence of forced labour in the rural areas. In the light of that material we will be in a position to decide whether some legislative action will be necessary or whether by administrative action these defects can be removed. Of course the Constitution has provided that the exaction of forced labour will be illegal. But as I have already said the mere enactment of a law is not going to eradicate forced labour. And so the simple provision in the Constitution itself is not going to eradicate forced labour. Mr. Sidhva says that anybody can approach the Supreme Court for redress. But the people from whom forced labour is taken are not in a position to approach even the police stations. How can they afford to go to the Supreme Court? Had they been in a position to approach even the police court (Shri R. K. Sidhva: Their consciousness has now risen) and make their voice effective there, I think this forced labour would have been a thing of the past. But what is required today is not a simple provision in the Constitution, not an enactment, but social consciousness—a consciousness among the people not to submit to forced labour at any cost. I can assure hon. Members of this House that if legislation is necessary I will bring it, not to oblige anybody but to oblige myself. And I can assure my friend Mr. Sidhva that I am not less enthusiastic in this matter than anybody else. But I am afraid the present Bill is not going to solve the problem. Therefore I am assuring him that as soon as the Agricultural Labour Inquiry is over and as soon as we are in possession of the materials we will take such action as will be deemed necessary in the light of those materials. I hope, Sir, my friend Mr. Sidhva will withdraw the Bill.

Shri T. A. Ramalingam Chettiar (Madras: General): But under the Constitution some penalty will have to be imposed by law.

Shri H. J. Khandekar (C.P. and Berar: General): On a point of information, Sir. The hon. Minister has made a reference to the Special Officer for Forced Labour. May I know from him whether this gentleman who has been appointed as the Special Officer for Forced Labour is an experienced man or has he been appointed simply because he belongs to a particular community?

The Honourable Shri Jagjivan Ram: There is no Special Officer at present. The Special Officer was appointed for six months only in the first instance. After he submitted his report his post has ceased to exist.

Shri H. J. Khandekar: Whether he is in office today or not, when he was appointed was he appointed as an expert in labour problems or was he appointed because he belonged to a particular community or caste?

The Honourable Shri Jagjivan Ram: Sir, I refute this insinuation. The officer was asked for from the C. P. Government and they gave us this gentleman who possessed the necessary experience and qualification in that respect. The report submitted by him has proved that he was eminently suited for the work.

Shri H. J. Khandekar: Were there other names received from the C. P. Government?

Mr. Deputy-Speaker: The hon. Member asked for some information and it has been given. There is no use in pursuing this matter, and there should be no insinuations.

Seth Govind Das (C.P. and Berar: General): If the hon. Member is willing to withdraw the Bill then let the discussion be stopped, Sir.

Mr. Deputy-Speaker: I am aware of it. The hon. Minister has made a statement. The hon. Member said that if a reasonable assurance is given he is prepared to withdraw it. But the House as a whole is interested in this matter. So if one or two points of clarification are raised I will allow them, but it is not intended that there should be a general debate upon a Bill which is sought to be withdrawn.

Shri T. A. Ramalingam Chettiar: Under the Constitution some penalty will have to be imposed by law. What is the Government going to do about it?

The Honourable Shri Jagjivan Ram: It will be examined and all necessary action will be taken.

Prof. N. G. Ranga (Madras: General): Sir, I am glad this question has again come up for discussion in this House.

Mr. Deputy-Speaker: May I interrupt the hon. Member? The hon. Member just made a motion for reference of the Bill to Select Committee. Incidentally he also said that if the hon. Minister would bring a piece of legislation of this kind himself and give an assurance to that effect he will withdraw not only his motion for referring the Bill to Select Committee but the Bill itself. Now the hon. Minister has given the assurance.

Prof. N. G. Ranga: Then I have nothing more to say.

Shri Sarangdhar Das (Orissa States): May I know if the hon. Minister of Labour is aware of the fact that in certain hilly districts in Orissa and Bengal, road-building is done by forced labour on payment of a smaller amount than is done in the plains?

Mr. Deputy-Speaker: He has said that he is aware that forced labour exists in various parts of the country.

Shri Sarangdhar Das: But my point was that the Government itself.....

Mr. Deputy-Speaker: Government knows that there is forced labour, and that is why the provision has been introduced in the Constitution. As to when steps have to be taken and in what form, all that will be considered by Government.

The Honourable Shri Jagjivan Ram: May I give a reply to that question? We are aware that under various pieces of legislation forced labour is permitted. That is why I have stated that we have already taken up this question with the Provincial and States Governments concerned to amend or repeal those provisions or those Acts.

Shri A. V. Thakkar: rose—

Mr. Deputy-Speaker: If the hon. Member wants to make a speech it is not appropriate, but if he wants to ask for any information he can do that.

Shri A. V. Thakkar (Saurashtra): Sir, I will ask for some information from the Labour Minister. Section 374 of the Indian Penal Code has existed for the last 89 years. May I know from the Labour Minister for how many years longer will that section or any other legislation made in its place will stand on the Statute Book before forced labour is really done away with in this country of India? That is my first question.

Another question is this. I agree with the Labour Minister in observing that any Act of Parliament will not do away with forced labour, but it is only a Committee of this Parliament going round the country that will awaken public sentiments and public feelings and public sense of morality. Therefore, just as Mahatma Gandhi went about the country for twelve months—to be correct for nine months—and awakened the consciousness of the country against untouchability, so this Committee suggested by Mr. Sidhva should go round the country and awaken the moral conscience of the people. Otherwise the thing will never be done by legislation.

Mr. Deputy-Speaker: I am sure the hon. Minister will take all these matters into consideration and will take effective steps. The question is:

Some Honourable Members: Sir, he doesn't press the motion.

Shri R. K. Sidhva: Sir, I don't desire to put this motion to vote. I stick to what I stated earlier. The Honourable Minister has given an assurance, though it is halting, that the social workers should do all this. I don't want to answer him, but it is unfair to the social service workers that they should be asked to do it. My friend has also stated that an Act is necessary. In view of the assurance that he has given that he will bring forward a Bill, I don't press this motion.

Mr. Deputy-Speaker: I have not put his motion for reference to Select Committee to the House because he does not want it, but so far as the Bill is concerned he would like to withdraw it. Has the hon. Member leave of the House to withdraw the Bill?

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

INDIAN CATTLE PRESERVATION BILL

Seth Govind Das (C. P. and Berar: General): Sir, I move:

"That the Bill to preserve the milch and draught cattle of the country, be taken into consideration."

The Honourable Dr. B. R. Ambedkar (Minister of Law): Sir, I would like to rise to a point of order. I think this Bill is *ultra vires*. Looking at the Statement of Objects and Reasons, the hon. Member has stated two objects which underlie this Bill. One is meeting the needs of the cattle, and the second is to increase the supply of milk.

Now, examining these objects of the Bill in the light of the different entries which regulate the legislative authority of the Central Legislature as well as the Provincial Legislature, there cannot be the slightest doubt that this Bill entirely falls within the purview of the Provincial Legislature. The first object which is to meet the needs of the cattle, in my judgment, is covered by entry 20 in List II. His second object, viz. the increase of supply of milk, also falls within entry 29 of List II. If one were to take a different view more liberal than the one which he has taken, of the objects of the Bill and assume that the object of the Bill is the supply of milk as part of public health, then again I submit that the Bill will fall within entry 14 of List II of the Legislative List.

The Bill also has one more object namely to create any deviation from the law which he proposes to make, an offence. That also would fall within entry 37 of List II.

Having regard, therefore, to all these entries, there can be no doubt that this Bill will be *ultra vires* of the Central Legislature, and I therefore suggest to my friend that it would be better to withdraw this Bill from the Legislature or it be ruled out of order.

Seth Govind Das: May I know why if the hon. Minister thinks that the Bill is out of order he did not raise this point when the Bill was introduced?

The Honourable Dr. B. R. Ambedkar: That is a very simple question.

Seth Govind Das: Is it not a fact that many Bills which relate to provincial subjects are introduced in this Legislature?

The Honourable Dr. B. R. Ambedkar: It cannot be.

Seth Govind Das: There is the Department of Agriculture, here, there is the Department of Health. May I know from the Agriculture Minister as to what is going to be done as far as the Centrally Administered Areas are concerned? Is he going to bring in any Bill with respect to this subject so far as these areas are concerned?

Shri L. Krishnaswami Bharathi (Madras: General): This Bill is not confined to those areas—it covers the whole country.

Seth Govind Das: I want to know as far as these areas are concerned what he is going to do.

Pandit Thakur Das Bhargava (East Punjab: General): Sir, in regard to the question of whether the Bill is *ultra vires*, reference has been made to the Statement of Objects and Reasons. My humble submission is that the Statement of Objects and Reasons alone does not furnish the only basis for considering whether the Bill is *ultra vires* or *intra vires*. In fact, if we look to the body of the Bill, it seeks to create an offence of the nature which is to be found in the Indian Penal Code. Under the Penal Code, maiming or killing of certain animals of the value of Rs. 50 or more is a criminal offence and

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therefore it is not free from doubt whether these entries which have been referred to by Dr. Ambedkar will apply to the case or not. These entries have special reference to provincial subjects I know, but at the same time if this Bill is considered to be one which creates an offence then my humble submission is that the Provincial as well as the Central Legislature have both got jurisdiction in regard to criminal matters. For instance, entry 1 of List II relates to such criminal offences and if those criminal offences are such as are included in the Indian Penal Code, then my humble submission is that it cannot be said absolutely that this is barred. It is a doubtful matter.

Seth Govind Das: Sir, the hon. Agriculture Minister was going to say something.

The Honourable Dr. B. R. Ambedkar: He is not concerned.

Mr. Deputy-Speaker: The hon. Member wants the hon. Agriculture Minister to reinforce his argument. So far as this particular point is concerned, it has been ruled on more than one occasion. It is not open to the Chair to enter into this vexed question. As a matter of fact, I may refer to a decision reported on page 32 of the "Decisions from the Chair":

"During the discussion on the Multi-Unit Co-operative Societies Bill, Mr. K. C. Neogy raised a point of order as to the jurisdiction of the Legislative Assembly on subjects mentioned in the Federal and Provincial Legislative lists in the Government of India Act, 1935, whereupon the President observed:

".....A point of order, generally speaking, relates to matters which concern the proper conduct of the proceedings of the House. The question whether the Assembly is competent to entertain a certain proposal for legislation is of great importance, and in my opinion, it is for the House to come to a conclusion on that point, as well as other points submitted to the House on the question whether the Bill should be passed or not."

Certainly it is for the House to take into consideration the objections that have been raised that it is not competent for the House to consider a legislation of this kind. I was a Member of this House when Dr. Deshmukh introduced a Bill on the subject of succession to property by Hindu widows. A point of order was raised then. It was decided that it is not competent for the Chair to rule it out on the ground that such a question could not be legislated upon. Therefore, if the House is willing, it may accept the present Bill; otherwise it may throw it out. It is for the courts to decide whether this legislature is competent or not competent. I am not in a position to say at this stage that his is out of order. It is for the hon. Member to take whatever decision he thinks fit, having regard to the point of order raised, and if it ultimately turns out that it is a futile piece of legislation that has been passed by this House, he will take the consequences. It is for him to decide.

Seth Govind Das: Then I am not willing to withdraw this Bill and I shall now make my speech.

Mr. Deputy-Speaker: I am not asking the hon. Member to withdraw. There is absolutely no such suggestion from the Chair. It is for him to do what he likes.

The Honourable Shri Jaramdas Doulatram (Minister of Food and Agriculture): May I make a reply to some of the points?

Mr. Deputy-Speaker: No. I have already given my ruling on the point of order.

The Honourable Shri Jairamdas Doulatram: Not on the point of order. The hon. Member in charge of this Bill wanted me to make certain things clear . . .

Mr. Deputy-Speaker: He should have done it earlier. The hon. Minister then rose but I found him resuming his seat. I should now ask the hon. Member to go on with his speech. At this stage, I am not prepared to allow any questions to be answered.

Shri L. Krishnaswami Bharathi: Do you mean to say, Sir, that if the Chair is not entitled to say, the House is not entitled to say whether the point of order raised is correct or not? I want to know.

Mr. Deputy-Speaker: Not on the point of order. The Bill will go on if the hon. Member wants to get on with it. It is open to him to proceed or not to proceed. If he proceeds, I will put the motion. Then it will be open to the House to accept the Bill, that is to say, to take it into consideration or to reject it.

Prof. N. G. Ranga (Madras: General): That is what you mean.

मेठ गोविन्द दास : सभापति जी, मुझे इस कानून के मसविदे को इस धारा सभा में रखते हुये बहुत खुशी हो रही है। मैंने इस विषय में सन् १९२३ ई० से जब से मैं केंद्रीय धारा सभा का मेंबर हूँ, हमेशा दिलचस्प ली है। इस असेम्बली में और कौंसिल आफ स्टेट में दोनों स्थानों पर मैंने समय समय पर इस विषय को अनेकों रूप में उठाया। जिस समय हम स्वतंत्र हो गये थे उस समय मैंने विधान परिषद में भी इस बात का प्रयत्न किया था कि हमारे विधान में भी इस सम्बन्ध में कोई धारा जोड़ दी जाय और वह धारा जोड़ दी गई। सरकार ने एक कमेटी का भी निर्माण किया जिस का मैं भी सदस्य रहा हूँ और उस कमेटी ने भी इस बात की सिफारिश की है कि इस देश में गोवध कतई बन्द होना चाहिये। अब इसके बाद याती स्वराज्य की स्थापना के बाद विधान में इस विषय में जो धारा जोड़ दी गई है उसके बाद सरकार ने जो इस सम्बन्ध में कमेटी बनाई थी उसकी सिफारिश के बाद इसके सिवा मेरे सामने कोई रास्ता नहीं था कि मैं इस विषय में इस असेम्बली के सामने एक कानून का मसविदा उपस्थित करूँ।

इस मसविदे में जो धारायें हैं उन पर मैं असेम्बली के सदस्यों का ध्यान आकर्षित करना चाहता हूँ। इसकी मुख्य धारा यह है कि इस देश में गोवध कतई बन्द होना चाहिये। जहाँ तक सरकार का सम्बन्ध है, माननीय कृषि मन्त्री जी ने इस बात की घोषणा की थी कि जहाँ तक काम के पशुओं का सम्बन्ध है सरकार इस नीति को स्वीकार करती है कि उनका वध बन्द होना इस देश में अत्यन्त आवश्यक है। परन्तु मैं उनसे यह कहना चाहता हूँ कि काम के पशुओं का वध न किया जाय, इस सम्बन्ध

में भिन्न भिन्न प्रान्तों में इसके पहले भी कानून पास हो चुके हैं और सरकारी आज्ञा निकल चुकी है। परन्तु उनके पास किये जाने के बाद, इन आज्ञाओं के निकल जाने के बाद भी हम इस बात को देखते हैं कि ज्यादातर उन जानवरों का वध इस देश में होता है जो काम के जानवर होते हैं।

The Honourable Shri K. Santhanam: On a point of order, the Bill as it stands cannot be enacted into law, because no amendments have been tabled and it is said that it shall come into force on the 1st day of January 1948. Unless proper amendments are brought in, this cannot be enacted into law.

Mr. Deputy-Speaker: There is no harm. It is such a small matter. I am not prepared to accept this point of order. It is a formal affair, which can always be modified. If the Bill is to be thrown out, let it be on another point.

Pandit Thakur Das Bhargava: All the same, there is one point which is quite clear. Even if this Bill is taken into consideration, it is not likely to be passed in this session. We have passed the Constitution and preservation of cattle is a provincial subject. Therefore, the whole of this labour will become infructuous.

Mr. Deputy-Speaker: It is for the House to decide whether it shall go on with this Bill or not. How is it a point of order? The House is going on with many things and they are taking a lot of time over them, knowing full well that they will not be passed in this session. This will be one along with the others.

The Honourable Shri Satyanarayan Sinha: Why not take the opinion of the House?

Mr. Deputy-Speaker: There is no procedure whereby I can take the opinion of the House in any manner I like or as perhaps the hon. Member likes. The speaker would kindly go on.

सेठ गोविन्द दास : सभापति जी, तो मैं यह कह रहा था कि मैंने बम्बई में, कलकत्ता में और दूसरे शहरों में जाकर खुद इस बात को अपनी आंखों से देखा कि वहाँ पर जितने पशुओं का वध होता है वह सब काम के होते हैं। पंजाब से और दूसरे स्थानों से पशुओं का निर्यात होता है। तो उनके बछड़ों को उस समय कसाई-खाने में दे देते हैं और उसके बाद ज्यूही उन गायों का दूध सूख जाता है त्यों ही वह कसाईखानों में भेज दी जाती हैं।

(Interruption)

Mr. Deputy-Speaker: The hon. Member does not give in.

Shri P. T. Chacko: On a point of order.

Mr. Deputy-Speaker: He has raised a point of order. Yes, what is it?

Shri P. T. Chacko: The Member is addressing in Hindi without getting any permission from the Chair, while the rule—rule 40—is that the business of the Assembly shall be transacted in English, provided that any Member may address the Assembly in Hindustani. Under this rule, he can address in Hindustani, but he is speaking in pure Hindi. May I ask for the ruling of the Chair on this point?

Mr. Deputy-Speaker: So far as I am concerned, Hindi and Hindustani are one and the same. That is no point of order.

संघ गोविन्द दास: इसके सिवा जिस दूसरी बात पर हमारा ख्याल जाता है वह यह है कि १४ वर्ष के ऊपर के.....

Shri H. J. Khandekar: 'Khyal' which the hon. Member is using is an Urdu word.

Mr. Deputy-Speaker: Let us not unnecessarily go into such details.

Shri L. Krishnaswami Bharathi: Does the hon. Member accept that Hindi and Hindustani are one and the same?

संघ गोविन्द दास: तो मैं यह कहना चाहता हूँ कि ७ या ८ वर्ष की उम्र के बाद किसी बड़े से बड़े विशेषज्ञ को भी इस बात का पता लगना असम्भव रहता है कि अमुक अमुक पशु की अवस्था १४ वर्ष की हो गयी है या नहीं। हमारे पड़ोसी देश बर्मा में पहले यही कानून बनाया गया था, उपयोगी पशुओं का वध न किया जाय। परन्तु बर्मा को जब यह बात ज्ञात हुई कि वह कानून केवल पुस्तकों में रह जायगा और वह व्यवहार में नहीं लाया जा सकता तब बर्मा ने एक कानून बनाया जिसके अनुसार बर्मा देश में गोवध कतई बन्द कर दिया गया। फिर इस देश में हम यह कह रहे हैं कि हमको अधिक अन्न चाहिये, हमको अधिक दूध चाहिये और हमको अधिक घी चाहिये। जब हम अधिक अन्न उपजाने की योजनाओं की तरफ ध्यान देते हैं तो हमें वहाँ पर दीख पड़ता है कि जहाँ तक बैलों का सम्बन्ध है इसमें बैलों का कोई स्थान नहीं है। मैं इस बात को मानता हूँ कि हमारे यहाँ पर ट्रैक्टरों (tractors) की भी जरूरत है। मैं यह नहीं कहता कि हम ट्रैक्टरों से काम नहीं लें। परन्तु इस देश में भूमि का जिस प्रकार से विभाजन है उसको देखते हुये यह हमें मानना पड़ेगा कि अकेले ट्रैक्टरों से हमारा काम चलने वाला नहीं है। एक तरफ अगर हमें अपनी वंजर जमीन को आबाद करने के लिये ट्रैक्टर चाहिये, जमीन के काम और हमारे करकट को निकालने के लिये हमें ट्रैक्टर चाहिये, तो दूसरी तरफ हमको बैलों की उससे कम आवश्यकता नहीं है। इसी के साथ हम यह भी देखते हैं कि उपज बिना खाद के नहीं बढ़ सकती। सरकार फर्टीलाइजर्स (fertilizers) के लिये बड़ी बड़ी फैक्ट्रियाँ (factories) बना रही है। बिहार की फैक्टरी बन रही है। उसमें कई करोड़ रुपया लगाया जाने वाला है। मैं इस प्रकार के फर्टीलाइजर्स के भी विरुद्ध नहीं हूँ, इसकी भी हमें जरूरत है। पर इसी के साथ साथ मैं यह कहना चाहता हूँ कि इस प्रकार की खाद के सम्बन्ध में विशेषज्ञों में मतभेद है। कुछ लोग मानते हैं कि लम्बी दौरान में इस प्रकार की खाद जमीन की शक्ति

को कम कर देती है। इस लिये यदि हमें एक तरफ फर्टीलाइजर्स की जरूरत है तो दूसरी तरफ ऐसे खाद की भी आवश्यकता है जिसके सम्बन्ध में विशेषज्ञों में कोई मतभेद नहीं है, जैसे गोबर और गोमूत्र का खाद। उसके लिये हमें इन पशुओं की आवश्यकता है।

तो जहाँ तक अन्न अधिक उपजाने का विषय है मैं आपसे यह कहना चाहता हूँ कि हमें यदि अन्न अधिक उपजाने की योजना को ठीक रूप से कार्य रूप में परिणत करना है तो यह आवश्यक है कि हम इस देश में गोवध कतई बन्द करें। अब यह कहा जाता है कि जिन पशुओं को निकम्मा कहा जाता है उनके खाने की, उनके रखने की, हम क्या व्यवस्था करें। मैं आपसे यह कहना चाहता हूँ कि इस विषय में भी जो कमेटी सरकार ने नियुक्त की थी उस कमेटी ने सिफारिशें की हैं और उस कमेटी ने कहा है कि इस प्रकार के पशुओं के रखने के लिये हमें गो-सदनों की स्थापना करनी चाहिये।

(English translation of the above speech)

Seth Govind Das: I am feeling a great pleasure in placing this Bill before this Assembly. I have all along taken interest in this matter ever since 1923 when I was elected as a Member of the Central Assembly. I raised this question in different forms from time to time both in this Assembly as well as in the Council of State. After we had achieved independence, I had also endeavoured in the Constituent Assembly that some provision to this effect should be made in our Constitution and an Article embodying this was, therefore, incorporated in it. The Government set up a Committee of which I am also a member and that Committee has recommended that cow-slaughter should be totally stopped in this country. Now after the attainment of independence, when an Article to this effect has been adopted in the Constitution, and after the recommendations of the Committee set up by the Government in this connection, there was no other alternative left with me except that I should present a Bill on this subject before this Assembly.

I would like to draw the attention of the hon. Members of this House to the various clauses of this Bill. Its main clause is that cow-slaughter should be totally stopped in this country. So far as Government are concerned, the hon. Minister of Agriculture had made an announcement to this effect that the Government accept this principle inasmuch as the slaughter of useful animals must necessarily be banned. But I would like to point out to him that the legislation has already been passed by the various Provinces banning the slaughter of useful cattle and Government orders issued to that effect. But even after the enactment of this legislation and the issue of these orders, we find that it is mostly the useful animals which are slaughtered in this country.

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): On a point of order, the Bill as it stands cannot be enacted into law, because no amendments have been tabled and it is said that it shall come into force on the 1st day of January 1948. Unless proper amendments are brought in, this cannot be enacted into law.

Mr. Deputy-Speaker: There is no harm. It is such a small matter. I am not prepared to accept this point of order. It is a formal affair, which can always be modified. If the Bill is to be thrown out, let it be on another point.

Pandit Thakur Das Bhargava: All the same, there is one point which is quite clear. Even if this Bill is taken into consideration, it is not likely to be passed in this session. We have passed the Constitution and preservation of cattle is a provincial subject. Therefore, the whole of this labour will become infructuous.

Mr. Deputy-Speaker: It is for the House to decide whether it shall go on with this Bill or not. How is it a point of order? The House is going on with many things and they are taking a lot of time over them, knowing full well that they will not be passed in this session. This will be one along with the others.

The Honourable Shri Satyanarayan Sinha (Minister of State for Parliamentary Affairs): Why not take the opinion of the House?

Mr. Deputy-Speaker: There is no procedure whereby I can take the opinion of the House in any manner I like or as perhaps the hon. Member likes. The speaker would kindly go on.

Seth Govind Das: Sir, I was just saying that I have personally seen this with my own eyes in Bombay, Calcutta and other cities that all the animals which are slaughtered there are useful cattle. The cattle are exported from Punjab and other places. Thus their calves are sent to the slaughter-houses and shortly afterwards as soon as these cows become dry, they are also sent to the slaughter-houses (*Interruption*).

Mr. Deputy-Speaker: The hon. Member does not give in.

Shri P. T. Chacko (United State of Travancore and Cochin): On a point of order.

Mr. Deputy-Speaker: He has raised a point of order. Yes, what is it?

Shri P. T. Chacko: The Member is addressing in Hindi without getting any permission from the Chair, while the rule—rule 40—is that the business of the Assembly shall be transacted in English, provided that any Member may address the Assembly in Hindustani. Under this rule, he can address in Hindustani, but he is speaking in pure Hindi. May I ask for the ruling of the Chair on this point?

Mr. Deputy-Speaker: So far as I am concerned, Hindi and Hindustani are one and the same. That is no point of order.

Seth Govind Das: Apart from this, the other thing which draws our attention is that those above the age of 14...

Shri H. J. Khandekar (C. P. and Berar: General): *Khyal* which the honour-Member is using is an Urdu word.

Mr. Deputy-Speaker: Let us not unnecessarily go into such details.

Shri L. Krishnaswami Bharathi: Does the hon. Member accept that Hindi and Hindustani are one and the same?

Seth Govind Das: So I would like to say this that after the age of seven or eight years, it is impossible even for the best of the experts to find out whether or not a particular animal has attained the age of 14. In our neighbouring country, Burma, there already exists legislation prohibiting the slaughter of productive animals. But when the Burma Government felt that such legislation would remain only on the Statute Book and never be implemented, they enacted a law which totally prohibited the cow-slaughter throughout the country. Still in this country, we are clamouring that we want more food, milk and ghee. When we look to the 'Grow More Food' schemes, we find that so far as the bullocks are concerned, they do not find any place there. I do admit that we also need tractors and I do not mean that we should not make use of the tractors. But in view of the distribution of land in our country we have but to own that tractors alone cannot serve our purpose. If, on the one hand, we need the tractors for the reclamation of our waste lands and for weeding out shrubs and other wild growth, on the other hand the necessity of oxen is no less appreciable. Along with this, we also see that the production cannot be increased without manure. The Government are constructing big fertilizer factories. The Bihar factory is under construction. Several crores of rupees are likely to be spent over it. I am also not opposed to such sort of fertilizers. We need these too. But along with this, I would like to say that the expert opinion differs on this type of manure. Some people hold the opinion that such sort of manure weakens the vitality of the land in the long run. Therefore, if on the one hand, we require the fertilizers, on the other, we also need that kind of manure about the fertility of which the experts hold a unanimous opinion, such as the manure of cow-dung and the urine of a cow. For that purpose, we need the preservation of these animals.

As regards the problem of production of more food, I would like to say that if we want to implement our 'Grow More Food' plans in a precise manner, then it is necessary that we should totally prohibit cow-slaughter in this country. Now it is asked, what arrangement should we make for the food and preservation of those animals which are no longer serviceable? I would like to tell you that the Committee which was appointed by the Government in this connection have also made recommendations and they have suggested that we should establish *gaushalas* (cow-pens).

Mr. Deputy-Speaker: The hon. Member will continue his speech after Lunch. The House will now stand adjourned till half past two of the Clock.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

TAXATION LAWS (EXTENSION TO MERGED STATES AND AMENDMENT) BILL

PRESENTATION OF REPORT OF SELECT COMMITTEE

The Honourable Dr. John Matthai (Minister of Finance): Sir, I beg to present the report of the Select Committee on the Bill to extend certain laws relating to taxation on income to certain areas administered as parts of Governors' Provinces or as Chief Commissioners' Provinces and further to amend certain laws relating to taxation on income.

INDIAN CATTLE PRESERVATION BILL—contd.

सेठ गोविन्द दाम : सभापति जी, जब हम लोग यहां से लंच के लिये उठें, उस समय मैं आपसे उन पशुओं के रखने के लिये जिन्हें हम अनुपयोगी कहते हैं, गोसदन स्थापित करने की चर्चा कर रहा था। सरकार ने जो कैटल प्रीजरवेशन कमेटी बिठाई थी, उसने यह सिफारिश की थी कि हमें इस देश में गोसदनों की आवश्यकता होगी। लोग कहा करते हैं कि आदमियों को तो खाना नहीं मिलता, और कुछ लोग गाय का विषय उठाते हैं। जो लोग यह कहते हैं, उनकी तर्क बुद्धि पर मुझे आश्चर्य होता है। मानो जो कुछ आदमी खाता है, वही गाय खाती है। बात ऐसी नहीं है। आदमी घास नहीं खाता, गाय घास खाती है। आदमी अन्न खाता है, गाय उसका भूसा खाती है। मैंने इस देश में भ्रमण कर ऐसे जंगलों को देखा है, अपने मध्यप्रान्त में देखा है, उड़ीसा में देखा है, आसाम में भी देखा है, जिन जंगलों में इफरात से घास होती है और या तो वह ग्रामों में सुखा कर जलाई जाती है, या बरसात में सड़ जाती है। उन जंगलों की घास का कोई उपयोग नहीं होता। इस प्रकार के गोसदन जहां यह अनुपयोगी कहे जाने वाले पशु रखे जायें, ऐसे जंगलों में स्थापित किये जा सकते हैं, उन गोसदनों को चलाने में विशेष खर्चा नहीं पड़ेगा। वहां उन्हें घास बिना किसी मूल्य के मिल सकेगी, और उनके गोबर, गोमूत्र से जो खाद तैयार होगी, वह खाद आसपास के खेतों की उन्नति कर सकेगी।

इन गोसदनों के साथ-साथ महात्मा गांधी ने जिस प्रकार के चर्मालयों का उपयोग किया है, और जो वर्धा में आज भी चल रहे हैं, वह चर्मालय स्थापित किये जा सकेंगे। और जब किसी गाय या बैल की मृत्यु होती है, उस समय उहका चमड़ा उन चर्मालयों में काम में लाया जा सकेगा। इस प्रकार एक मिश्रित योजना है जिस योजना के अनुसार, यह गोसदन सैल्फ सपपोर्टिंग (self-supporting), बिना किसी खर्च के चलाये जा सकेंगे।

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एक बात हमें इन गोसदनों में और करनी चाहिये कि इन अनुपयोगी जानवरों की संतति हम बन्द कर दें, वहां पर हम कोई सांड न रखें। गोसदनों पर मैं इस लिये विशेष जोर दे रहा हूँ तथा अनुपयोगी पशुओं को न मारने के सम्बन्ध में इस लिये कह रहा हूँ कि जो कुछ मैंने बम्बई कलकत्ता, मद्रास और दूसरी बड़ी-बड़ी जगहों में देखा है, उसके आधार पर मेरा यह निश्चित मत है कि इस देश में गोवध अच्छे पशुओं का ही होता है, और जबतक हम गोवध कतई बन्द नहीं करेंगे, और इस तरह के पशुओं के रखने की व्यवस्था जब तक हम इस प्रकार के गोसदनों में नहीं करेंगे, तब तक न तो हम उपयोगी पशुओं की रक्षा कर सकेंगे, और न हम उनकी नस्ल ही सुधार सकते हैं।

शायद इस देश के लोग इस बात को नहीं जानते होंगे कि आज भी इस देश में सबसे बड़ी आमदनी गोधन की है जो इस विषय में दिलचस्पी रखते हैं, उन्होंने अर्थात् विशेषज्ञों ने इस सम्बन्ध में कुछ इत्तला इकट्ठी की है और उनके अंकों से यह ज्ञात होता है कि इस देश में १९ अरब रूपया साल की गोधन से आमदनी है। मैं उन अंकों और विशेषज्ञों की राय को यहां पर पढ़ कर अधिक समय नहीं लूंगा, परन्तु मैं यह कहना चाहता हूँ कि जितनी आमदनी इस देश में गोधन से है, उतनी बड़ी आमदनी किसी दूसरे व्यापार से नहीं है। फिर ध्यान देने की बात यह है कि अन्य व्यापारों की चाहे वह लोहे का व्यापार हो, चाहे कपड़े का व्यापार हो, चाहे शक्कर का व्यापार हो, चाहे चाय का व्यापार हो, कोई भी व्यापार क्यों न हो उनको सरकार से संरक्षण प्राप्त हुआ होता है उसके खिलाफ जहाँ तक गोधन का सम्बन्ध है, वहां वजाय किसी प्रकार के संरक्षण के गायें कल की जाती हैं। संरक्षण की बात तो अलग रही इस गोधन व्यापार को सरकार की ओर से किसी प्रकार का संरक्षण प्राप्त नहीं रहता है, लेकिन तब भी इस व्यापार की आमदनी इतनी अधिक है और मैं दावे के साथ कह सकता हूँ कि यह देश जो कृषि प्रधान देश है और जहां कृषि की उन्नति की बात कही जाती है, जहां पर अन्न अधिक उपजाने की भिन्न-भिन्न योजनायें बनती हैं और उन योजनाओं के प्रचार का प्रयत्न किया जाता है, वहां पर यदि हम लोग गोधन की ओर दृष्टि डालें और इस सम्बन्ध में कुछ भी प्रयत्न करें, तो इस व्यापार की आय जितनी इस समय होती है, उससे कहीं अधिक बढ़ सकती है।

अभी सरकार ने एक्सपोर्ट के सम्बन्ध में एक कमेटी स्थापित की थी। मैं तो उस कमेटी की रिपोर्ट देख कर दंग रह गया। उस कमेटी के सदस्यों ने यह कहा

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कि इस देश से चमड़े का निर्यात इतना कम हो गया कि इस समय जो गोवध बन्द करने का आन्दोलन चल रहा है उसके अनुसार गोवध बन्द करना इस देश के लिये श्रेयस्कर नहीं होगा। परन्तु वह इस बात को भूल गये कि जो चमड़ा उनके गोवध करने से प्राप्त हो सकता है, यदि हम इस प्रकार के गोसदनों को स्थापित करें और इस प्रकार के गोसदनों को स्थापित करके वहाँ चर्मालय स्थापित करें, तो हमको वह चमड़ा उतना ही या उससे भी अधिक प्राप्त हो सकता है। तो इसकी वजह वह कमेटी इस सम्बन्ध में यह रखती कि गोसदनों की स्थापना की जाय और गोसदनों के साथ चर्मालय स्थापित किए जायें तो अधिक अच्छा होता। इस कमेटी का इस प्रकार का निवेदन इस देश के लिए, मैं कहना चाहूंगा, हितकर नहीं है। और इस एक्सपर्ट कमेटी की रिपोर्ट से इस देश के निवासियों के हृदयों को काफ़ी चोट पहुंची है यह मैं यहां कहना चाहता हूं।

दूसरे देशों में कितने पशु हैं और यहां कितने पशु हैं, दूसरे देशों में कितना दूध लोगों को मिलता है और इस देश में कितना दूध मिलता है। दूसरे देशों में बच्चों की मृत्यु की संख्या कितनी है और इस देश में कितनी है। इन विषयों के अंक भी मैं इस समय नहीं रखना चाहता क्योंकि इन अंकों को मैंने विधान परिषद में रखा था और उसके पहले भी मैं अनेक बार रख चुका हूं। उन अंकों के आधार पर यह बात सिद्ध हो जाती है कि इस देश में जितना कम दूध यहां के लोगों को मिलता है उतना कम दूध संसार के किसी देश के लोगों को नहीं मिलता। यहां पर जितने बच्चों की मृत्यु होती है उतने बच्चों की मृत्यु संसार के किसी देश में नहीं होती।

मैं यह कहना चाहता हूं कि गोवध बन्द करने से हमारा काम सिद्ध नहीं होता। यह मैं स्वीकार करता हूं। परन्तु गोवध पहला कदम है यह मैं कहना चाहता हूं जैसा मैं आज भी अनेक बार कह चुका हूं और इसके पहले भी कई बार कह चुका हूं कि इस देश के उपयोगी पशुओं की रक्षा भी बिना गोवध को कतई बन्द किए नहीं हो सकती। इसलिए मैं इस पर बार बार जोर देता हूं। पर जहां मैं गोवध बन्द करने की बात कहता हूं, गोसदनों की स्थापना की बात कहता हूं, वहां मैं पशुओं की नस्ल सुधार की बात भी कहता हूं। जब तक पशुओं की नस्ल का सुधार नहीं होगा तब तक हमारा काम नहीं चल सकता। और इसके लिए मैं यह कहना चाहता हूं कि यदि गोसदना स्थापित किए जायें और अनुपयोगी पशुओं को इन गोसदनों में भेज दिया जाय और दूसरी ओर इन गोशालाओं को सरकार की ओर से सहयोग प्राप्त हो तो नस्ल सुधार का काम बहुत दूर तक यह गोशालायें सरलता से कर सकती हैं।

इस देश में यों तो गोशालाओं की संख्या करीब ३ हजार है, परन्तु उनमें से छः सौ गोशालायें बहुत अच्छी हैं जिनके पास काफ़ी भूमि है, काफ़ी इमारतें हैं और जिन के

पास थोड़ा बहुत धन भी है, और आप लोगों को सुन कर आश्चर्य होगा कि इस देश में इन छः सौ गोशालाओं का करीब तीन करोड़ रुपये प्रति वर्ष खर्च होता है। अभी इन गोशालाओं पर इस समय अधिकतर भार अनुपयोगी पशुओं का है। यदि सरकार इस प्रकार के गोसदन स्थापित कर दें तो यह गोशालायें अच्छी से अच्छी डेरी (dairy) और अच्छे से अच्छे ब्रीडिंग फार्म (breeding farms) में परिवर्तित की जा सकती हैं। ज्योंही इन अनुपयोगी कहे जाने वाले पशुओं का भार गोशालाओं से हटा ल्योंही यह गोशालायें इस प्रकार की हो जायेंगी। गोशालाओं के ऊपर हंसने से काम नहीं चलेगा और उनकी आलोचना करने से भी काम नहीं चलेगा। मैं आप से कहना चाहता हूं कि इस देश में यदि कोई अच्छी गाय दिखाई दे जाती है तो इसका श्रेय गोशालाओं का ही है। यदि यह गोशालायें स्थापित न की जातीं और इन गोशालाओं में थोड़ा बहुत नस्ल सुधार का काम न होता तो जो अच्छी गायें हम इस देश में देख रहे हैं वह भी न मिलतीं। कहना बड़ा सरल है कि यह सब गोशालायें लंगड़े और लूले जानवरों का रक्षण करती हैं, पर यह बातें वही लोग कहते हैं जिन्होंने उन गोशालाओं को नहीं देखा है, और उनका अनुभव नहीं किया है। मैं आपसे कहना चाहता हूं और बहुत जोर देकर कहना चाहता हूं कि जहां तक इन गोशालाओं का सम्बन्ध है, वहां तक इन गोशालाओं ने गोधन बचाने और गोधन की तरक्की करने के लिये अब तक बहुत कुछ किया है। और यदि इसी प्रकार के गोसदनों को स्थापित करके सरकार इन गोशालाओं को सहायता दे तो यह गोशालायें इस देश में बहुत कार्य कर सकती हैं।

मानव केवल मस्तिष्क से शासित नहीं होता है। वह ऐसा प्राणी है जो मस्तिष्क और हृदय दोनों से शासित होता है, और जिस समय हम इस प्रकार की समस्याओं पर विचार करें उस समय मैं कहना चाहता हूं कि दोनों बातों को ध्यान में रख कर हम इन पर विचार करें। इस सम्बन्ध में जनमत क्या है, देश का हृदय क्या चाहता है इस पर भी हम विचार किये बिना नहीं रह सकते। मैंने इस सम्बन्ध में आज लगभग २६ वर्षों से निरन्तर प्रयत्न किया है। मैं देश भर में इस सम्बन्ध में घूमा हूं। मैंने लोगों का मत संग्रह करने का भी प्रयत्न किया है। अब जो बिल इस असेम्बली में पेश है उस बिल को मैंने इस देश की भिन्न भिन्न धारासभाओं के सदस्यों को भेजा था। और उनकी इस सम्बन्ध में राय आई। उस राय से यह स्पष्ट हो जाता है कि यह विषय साम्प्रदायिक विषय है ही नहीं लोग इसको साम्प्रदायिकता की दृष्टि से नहीं देखते। जो राय मुझे प्राप्त हुई है भिन्न भिन्न असेम्बलियों के सदस्यों की, उनकी संख्या इस प्रकार है : बिहार से मुझे वहां की असेम्बली के २९ सदस्यों ने इस पक्ष में अपनी राय भेजी है, कुछ ने जवाब नहीं दिया, कुछ जवाब दे रहे हैं और उनमें दो मुसलमान हैं, एक मि० बी० यू० खां और दूसरे मि० एम० ए० क्यू० अन्सारी, उड़ीसा के १८ सदस्यों की राय

[सेठ गोविन्द दास]

आई है, उनमें भी दो मुसलमान हैं, एक मि० एस० एफ० हक और एक मि० एम० यूसुफ, बंगाल के २४ सदस्यों की राय आई है।

डाक्टर पी० एस० दशमुख : कुल सदस्य कितने हैं।

सेठ गोविन्द दास : मैंने बताया कि अभी लोग भेज रहे हैं। मद्रास से ६४ सदस्यों की राय आई है इसके मत में और इसमें एक मुसलमान हैं, मि० एम० हुसेन और एक ईसाई हैं मिसेज हेन्समैका। बम्बई के २४ सदस्यों की राय आई है, पंजाब से २१ सदस्यों की राय आई है, यू० पी० के ६० सदस्यों की राय आई है, जिनमें आठ मुसलमान हैं, लुत्फ अली खां, मुहम्मद नबी, मुहम्मद जमशेद अली खां, मिस्टर सुलतान आलम खां, मिस्टर रुक्न हुसैन, मिस्टर मुहम्मद सुलेमान, मिस्टर निहालुद्दीन और बख्शी अहमद अन्सारी। सी० पी० से १८ सदस्यों की राय आई है, उनमें एक मुसलमान हैं, मिस्टर एस० एम० हसन।

अब मैं कुछ लोगों की राय आपके सामने पढ़ना चाहूंगा। मिस्टर बी० यू० खां जो बिहार के हैं उन्होंने कहा है :

"I would like to say that so far as I know, Muslims would welcome such strict legislation rather than adoption of a backdoor method. This might be misunderstood by many and the proposed legislation by Government introducing only partial prohibition might eventually prove to be a machine of Muslim oppression."

दूसरे मिस्टर ए० क्यू० अन्सारी ने लिखा है :

"I will do needfull in the matter."

मिस्टर एस० एफ० हक ने लिखा है :

"I fully support the stopping of cow-slaughter."

मिस्टर यूसुफ ने कहा है :

"I am in complete agreement with your proposal. It will have my unqualified and unstinted support."

Dr. Mono Mohon Das: Is there anybody who has not supported it?

सेठ गोविन्द दास : जी नहीं। उसके बाद मिस्टर हसन ने लिखा है :

"The question of cow protection has become an article of faith with me, particularly since 1920, when I suspended my studies in the Wilson College, Bombay. During the Non-cooperation movement after hearing a memorable speech of our late revered Bapu, I took a vow

not to touch beef and I have kept up my vow religiously all these twenty nine years. The cow, I honestly tell you, is as sacred to me as she is to any Hindu brother of mine."

संयुक्त प्रान्त के प्रधान मन्त्री, पण्डित गोविन्द वल्लभ पन्त जी ने मेरे इस गो-सेवक समाज को एक बड़ा लम्बा सन्देश भेजा है। इसको मैं पढ़ना नहीं चाहता, जिसमें उन्होंने इसका समर्थन किया है।

इसके बाद मैं यह भी बतलाना चाहता हूँ कि हिन्दुस्तान में

Shrimati G. Durgabai: On a point of information, Sir, I want to know . . .

Seth Govind Das: I am not giving way, Sir.

Mr. Deputy-Speaker: He is not giving way.

Shrimati G. Durgabai: On a point of order . . .

Mr. Deputy-Speaker: I do not want every point of information to be converted into a point of order.

Shrimati G. Durgabai: I wanted to know, Sir, whether this Bill was circulated for public opinion, or is the hon. Member reading out, for the benefit of hon. Members, the opinions sent by individuals to whom the Bill was sent?

Mr. Deputy-Speaker: Yes, evidently they are letters addressed to him.

An Honourable Member: Letters?

Seth Govind Das: Yes, letters in support of this Bill.

Shri B. L. Sondhi: At your instance?

Seth Govind Das: Of course, I sent them the Bill and they could have said that they did not support it; but they have all supported it.

तो मैं अपने इतने मुसलमान भाइयों की राय को पढ़ने के बाद कहना चाहता हूँ कि हमें इस प्रश्न को साम्प्रदायिक दृष्टि से देखना ही नहीं है। यह साम्प्रदायिक प्रश्न नहीं है। इसमें सन्देह नहीं है कि यह ऐसा प्रश्न है जिससे हमें देश के हृदय को भी संतुष्ट करना है, परन्तु यह साम्प्रदायिक प्रश्न नहीं है, मैं यह कहना चाहता हूँ।

अब इस विषय में एक सबसे बड़ा प्रश्न है और वह यह है कि अगर गोबध कतई बन्द किया जाता है और इन गोसदनों की स्थापना होती है और नस्ल सुधारने का सारा काम सरकार अपने हाथ में लेना चाहती है, तो इसके लिये जिस धन की आवश्यकता होगी वह कहाँ से आयेगा। इस कठिनाई को मैं महसूस करता हूँ। परन्तु इ

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विषय में पहली बात तो मुझे यह कहनी है कि इस सम्बन्ध में जो लागें हैं वे इतनी अधिक हैं और वे कई व्यापारियों के यहां जमा रह जाती हैं और दी नहीं जातीं, कि अगर उनकी वसूली को कानून बना कर किया जाय तो उन लागों से हमको पर्याप्त धन मिल सकेगा। इन लागों के सिवा माननीय कृषि मन्त्री जी इस बात को जानते होंगे कि जो कमेटी उन्होंने इस सम्बन्ध में बनाई थी उस कमेटी ने सरकार को एक सिफारिश की है और वह सिफारिश यह है कि इस सम्बन्ध में अगर सरकार कोई नया टैक्स भी लगाना चाहे तो वह नया टैक्स लगा सकती है अगर गोवध बन्द कर दिया जाये। गोवध जारी रखते हुए अगर केवल नस्ल सुधारने के लिये टैक्स लगाया जायगा तो लोग पसन्द नहीं करेंगे, पर गोवध कतई बन्द करके नस्ल सुधारने के लिये अगर सरकार कोई नया टैक्स भी लगायेगी तो इस देश की जनता उस नये टैक्स को सहर्ष देगी और वह उसमें कभी पीछे पैर नहीं रखेगी। इस लिये इस सम्बन्ध में जितने धन की आवश्यकता होगी वह धन हमको सरलता से मिल सकेगा। इसमें मुझे कोई सन्देह नहीं है।

Dr. Mono Mohon Das: This levy of a tax for cow protection, is that the opinion of the hon. Member or that of his Cow Protection Society?

सेठ गोविन्ददास : तो मेरा यह कहना है कि स्वराज्य के बाद मेरी दृष्टि में यह दो आवश्यक चीजें थीं, एक तो इस देश की राष्ट्रभाषा का सवाल और दूसरा गोरक्षा का सवाल। लोग मुझ से कहते हैं कि मैंने इन दोनों बातों को कैसे मिला दिया है। हिन्दी और गोरक्षा से क्या सम्बन्ध है? मैं यह कहना चाहता हूं कि एक का हमारे मस्तिष्क से सम्बन्ध है क्योंकि ज्ञान के प्रसार बिना देश की स्वतन्त्रता स्थायी नहीं हो सकती, और दूसरी का हमारे शरीर से सम्बन्ध है। इस शरीर की रक्षा बिना गोरक्षा के नहीं हो सकती। शरीर और मस्तिष्क इन दोनों का इन दोनों विषयों से घनिष्ठ सम्बन्ध है, मैं तो कहूंगा कि अन्योन्याश्रयी सम्बन्ध है। इसलिये स्वराज्य के पश्चात् मैंने इन दो विषयों को लेने का प्रयत्न किया। मैं सरकार का और धारा सभा के सदस्यों का अनुग्रहीत हूं कि उन्होंने बहुत दूर तक हम लोगों का साथ दिया। हिन्दी का प्रश्न भी बहुत दूर तक हल हो गया और गोरक्षा का विषय भी हमारे विधान में शामिल कर लिया गया है। परन्तु उसके बाद आगे और बढ़ाने की जरूरत है। हिन्दी के मामले में भी आगे बढ़ने की जरूरत है, गोरक्षा के मामले में भी आगे बढ़ने की जरूरत है, और मैं आपसे यह कहना चाहता हूं कि इस देश की जनता स्वराज्य का अर्थ ही नहीं समझेगी अगर इस देश में गोवध कतई बन्द होकर गाय की नस्ल सुधारने का प्रयत्न नहीं होगा। इसी लिये हमारे विधान में इस विषय के जोड़े जाने के बाद मैंने यह आवश्यक

समझा कि इस दिशा में मैं एक कानून का मसविदा उपस्थित करूं और वह मसविदा मैं उपस्थित कर रहा हूं। मैंने जो अब तक इस सम्बन्ध में संक्षेप से कहा है उसके पांच निचोड़ हैं :

(१) गोवध कतई बन्द हो जब तक यह नहीं होता तब तक उपयोगी पशुओं का बध भी बन्द नहीं हो सकता।

(२) इसके लिए गो सदनों की स्थापना हो।

(३) गोशालाओं के ऊपर से अनुपयोगी पशुओं का भार हटा कर और उन्हें गोसदनों में रख कर गोशालाओं को डेअरी और ब्रीडिंग फार्म्स में परिवर्तित किया जाय।

(४) स्थानीय नस्लों की उन्नति। यह नहीं कि एक प्रांत से दूसरे प्रांत में जान-वर भेजे जायें और उनकी दही की आबोहवा अनुकूल न पड़े और वह मर जायें। यह उपयुक्त भी नहीं है। मैं एक प्रांत से दूसरे प्रांत में गायों के भेजने को कतई बन्द करना चाहता हूं। हां सांड जरूर भेजे जायें जिससे नस्ल की उन्नति हो।

(५) इस सब काम के लिए जो लाग लागी हुई है उस लागे को दसूल करने का ठीक प्रबन्ध हो और इसके बाद भी यदि जरूरत हो तो एक नया टैक्स लोगों पर लगाया जाय जिसे, मेरी आशा है, लोग सहर्ष देंगे।

इन शब्दों के साथ मैं अपना विल विचार के लिए पेश करता हूं। मैंने इस धारा सभा का बहुत समय लेने का प्रयत्न नहीं किया। इसी लिए मैंने अंकों को और जो दूसरे उद्धरण मुझे देने थे उनको नहीं पड़ा और जो दूसरी बातें मुझे कहनी थी मैंने नहीं कही और इस बहुत बड़े विषय को संक्षेप में सम्पादित किया जिसके लिए एक भाषण सुबह से शाम तक होना चाहिए था। परन्तु मैं बहुत संक्षेप से इस सम्बन्ध में जो कुछ मुझे कहना था कह कर इस प्रस्ताव को आपके सामने उपस्थित करता हूं।

श्री एच० ज० खांडेकर : डिप्टी स्पीकर साहब, मैं सेठ गोविन्द दास जी से यह पूछना चाहता हूं कि अगर गोवध बन्द कर दिया जायगा तो क्या चमड़े की उपज कम हो जायगी या ज्यादा हो जायगी?

सेठ गोविन्द दास : मैं आपसे यह स्पष्ट कर चुका हूं कि अगर हम सारे देश में अच्छी तरह से गोसदनों की स्थापना कर देंगे तो मेरा यह मत है कि इस तरह से हमको चमड़े की कमी मालूम नहीं होगी और हमको पर्याप्त चमड़ा मिलता रहेगा और हमारे निर्यात के कार्य में भी बाधा नहीं पड़ेगी।

(English translation of the above speech)

Seth Govind Das: Sir, before we rose for lunch I was speaking about the founding of *gosadans* for those cattle which we regard as no longer useful. The Cattle Preservation Committee which was appointed by the Government made a recommendation that we should need *gosadans* in this country. Some people are prone to remark, 'Here are persons who are raising the question of cows at a time when food is not available even for men'. I am surprised at the logic of people who make that remark. It sounds as if the cow eats the same kind of food as man which is not the case. Man does not eat grass which the cow does. Man eats foodgrains, the cow eats their chaff. In the course of my tours in this country I have seen jungles—in my Central Provinces, in Orissa and also in Assam—which abound in grass, which is either made to dry up and then burnt in the villages or rots away during the rainy season. The grass that grows in those jungles is not put to any use. The *gosadans* to house the so-called useless cattle can be located in such jungles. The maintenance of these *gosadans* will not involve any extraordinary expenditure. Grass will be available there for them without any cost while the manure resulting from their dung and urine will help in the improvement of the neighbouring fields.

Alongside with these *gosadans* it will be possible to establish tanneries of the type brought into vogue by Mahatma Gandhi which are working in Wardha even today, so that whenever some cow or bullock dies its hide will be utilised by the tannery. There is thus a composite plan according to which these *gosadans* will be maintained on a self-supporting basis, without any extra expense.

We should make one more provision in regard to these *gosadans*; stop the procreation of these no longer useful cattle, by not keeping any stud-bull there. I am laying particular emphasis on *gosadans* and advocating the imposition of a ban on the slaughtering of unproductive cattle, for the reason that on the strength of what I have observed in Bombay, Calcutta, Madras and other big places, I am of the firm opinion that in this country it is invariably the useful type of cattle that come to be slaughtered. Not until we ban cow-slaughter entirely and provide for the keeping of that kind of cattle in such *gosadans* shall we be able either to protect useful cattle or to improve their breed.

Possibly the people of this country are not aware of the fact that even today the highest income in this country proceeds from its cattle wealth. The experts who have pursued this subject with a special interest have compiled information on that point. From the figures provided by them it is revealed that this country has an annual income of 19 *arabs* (19.00 *crores*) of rupees from its cattle wealth. I shall not take any more time of this House by reading out those figures and the opinion of the experts but I do want to assert that the volume of income which accrues to this country from cattle wealth is not equalled by that from any other business. And, the most remarkable thing is this that in the case of other businesses, whether it be steel, cloth, sugar or tea, whatever business it might be, protection is available from the Government, while, on the other hand, in so far as cattle wealth is concerned, instead of any kind of protection being granted to it, cow-slaughter is going on. Protection is a far cry. Even though this cattle business enjoys no protection of any kind from the Government still the income resulting from it is very considerable. I can say with authority that in this country, which is predominantly an agricultural land, where one hears about agricultural improvements, where various plans are evolved for increasing the production of foodgrains and efforts are made to propagate those plans, if we were to turn our attention towards our cattle wealth and make some sort of effort in that direction the income from this business at present available can be very greatly increased.

Recently the Government appointed a committee in connection with exports. I was simply stunned by the report of that committee. The Members of that committee have expressed the opinion that the export of skins from this country has diminished to such an extent that it would not be in the interests of this country to ban cow-slaughter as demanded by those carrying on agitation against it. They have, however, ignored the fact that if we were to found such *gosadans* and also establish tanneries alongside with them we could obtain the same or even greater quantity of skins. Thus it would have been better for that committee to have, instead, recommended the founding of *gosadans* and the establishment of tanneries alongside with them. The kind of proposition that has been made by this committee is, I must say, not in the interests of this country. I wish to point out that the report of this Expert Committee has considerably hurt the feelings of the people of this country.

What is the number of cattle in other countries and what is the number here? How much milk do people in other countries get and what is the quantity available in the case of this country? What is the incidence of infant mortality in other countries and where does it stand in ours? I do not wish to give you the figures on those subjects at this time, because I gave them to the Constituent Assembly and even before that I have placed them before you a number of times. On the basis of those figures it is proved that in no other country of the world do people get such a little quantity of milk as here. No other country of the world has such an appalling rate of infant mortality as ours. I wish to say that our purpose will not be achieved simply by banning cow-slaughter. I acknowledge this fact. But the banning of cow-slaughter is the first step in this direction. I wish to say, as I have repeatedly said in the past also, that without the total banning of cow-slaughter the preservation of the useful animals of this country cannot be made. That is why I repeatedly lay stress on this point. But whenever I talk about the banning of cow-slaughter and the establishing of cow-pens I also lay stress upon the improvement of the breeds of the cattle. Till the breeds of our cattle are not improved we cannot achieve our purpose. So I wish to say that if cow-pens are established and the unproductive cattle sent therein and if on the other hand these *gaushalas* were to enjoy the co-operation and help of the Government then these *gaushalas* can very easily work to a great extent towards the improvement of the breeds.

There are nearly 3000 *gaushalas* in this country but out of the lot nearly 600 are very good. They have enough lands, sufficient buildings and have some funds also, and you would be surprised to hear that in our country nearly three *crores* of rupees are spent annually over these *gaushalas*. At present the major burden on these *gaushalas* is of un-productive cattle. If the Government were to establish such cow-pens then these *gaushalas* can be converted into excellent dairy and cattle-breeding farms. No sooner the burden of these so-called un-productive cattle is shifted from these *gaushalas*, they will soon be converted into such farms. No useful purpose will be served by simply laughing and making fun of these *gaushalas*. No amount of criticism also will serve the purpose. I wish to tell you that if any cows of good breed are seen in this country today then the credit of this should go to these *gaushalas*. Had these *gaushalas* not been established and the task of the improvement of the breeds not undertaken in them then even these good breeds of cow that we see today in our country could not have been found. It is very easy to say that all these *gaushalas* give shelter and protection to maimed and crippled cattle. But such allegations are made by those persons only who have not seen these *gaushalas* and have no experience of them. I wish to tell you with

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all the emphasis at my command that as far as these *gaushalas* are concerned they have done a lot of good work for the improvement and preservation of the cattle-wealth of this country and if the Government were to help these *gaushalas* by establishing similar ones then these *gaushalas* can serve a very useful purpose in this country.

Man is governed not by his brain alone, but he is such a creature who is acted upon both by the brain and the heart, and so when we discuss such problems then, I wish to say, we should think over them only after taking both the aspects of human nature into consideration. We cannot at the same time help taking into consideration the public opinion in this respect or what the country demands us to do in this matter. For the last 26 years I have incessantly been making all possible efforts in this direction. I have toured the whole country in this connection. I have tried to ascertain the public opinion also in this respect. I had sent copies of the Bill that is before the House to the hon. Members of the different Legislatures of the country, and some opinions on this Bill were also received. It becomes quite clear from the opinions that the matter is not in the least of communal nature, people do not consider this matter from the communal viewpoint. The number of the opinions received by me from the hon. Members of the different Legislatures is as follows: From Bihar 29 hon. Members of the Bihar Assembly have sent their opinions in favour of the Bill, some have not yet sent their opinions, some are sending and these hon. Members include two Muslims also, one is Mr. B. U. Khan and the other is Mr. M. A. Q. Ansari. From Orissa the opinions of 18 hon. Members have been received, this number also includes two Muslims, one is Mr. S. F. Haq and the other is Mr. M. Yusuf. Twenty-four Members from Bengal have sent their opinions.

Dr. P. S. Deshmukh (C.P. and Berar: General): What is the total number of the hon. Members?

Seth Govind Das: I have just told you that some hon. Members are sending their opinions even now. From Madras the opinions of 64 hon. Members in the favour of the Bill have been received and this number includes one Muslim Mr. M. Husain and one Christian Mrs. Hansman. From Bombay the opinions of 24 hon. Members have been received, from Punjab of 21 hon. Members and from the United Provinces that of 60 Members including eight Muslims, Lutf Ali Khan, Mohd. Nabi, Mohammed Jamshed Ali Khan, Mr. Sultan Alam Khan, Mr. Ruku Husain, Mr. Mohammad Suleiman, Mr. Nihaluddin and Bakshi Ahmad Ansari. From Central Provinces the opinions of 18 members have been received including one Muslim Mr. S. M. Hassan.

Now I would like to read before you the opinions of some of the hon. Members. Mr. B. U. Khan of Bihar has written:

"I would like to say that so far as I know, Muslims would welcome such strict legislation rather than adoption of a backdoor method. This might be misunderstood by many and the proposed legislation by Government introducing only partial prohibition might eventually prove to be a machine of Muslim oppression."

Another hon. Member Mr. A. Q. Ansari has written:

"I will do useful in this matter."

Mr. S. F. Haq has written:

"I fully support the stopping of cow-slaughter."

Mr. Yusuf has written:

"I am in complete agreement with your proposal. It will have my unqualified and assisted support."

Dr. Mono Mohon Das (West Bengal: General): Is there anybody who has not supported it?

Seth Govind Das: None. Mr. Hassan has further written:

"The question of cow protection has become an article of faith with me, particularly since 1920, when I suspended my studies in the Wilson College, Bombay. During the Non-co-operation movement after hearing a memorable speech of our late reverend Bapu, I took vow not to touch beef and I have kept up my vow religiously all these twenty nine years. The cow, I honestly tell you, is as sacred to me as she is to any Hindu brother of mine."

The Hon. Pandit Govind Ballabh Pant, the Premier of the United Provinces, has sent a long and lengthy message to my गो सेवक सभा (Cattle Protection Society). I do not want to read out his message wherein he has supported this proposal. After this I wish to tell you this also that in India...

Shrimati G. Durgabai (Madras: General): On a point of information, Sir, I want to know...

Seth Govind Das: I am not giving way, Sir.

Mr. Deputy Speaker: He is not giving way.

Shrimati G. Durgabai: On a point of order.....

Mr. Deputy-Speaker: I do not want every point of information to be converted into a point of order.

Shrimati G. Durgabai: I wanted to know, Sir, whether this Bill was circulated for public opinion, or is the hon. Member reading out, for the benefit of hon. Members, the opinions sent by individuals to whom the Bill was sent?

Mr. Deputy-Speaker: Yes, evidently they are letters addressed to him.

An Honourable Member: Letters?

Seth Govind Das: Yes, letters in support of this Bill.

Shri B. L. Sondhi (East Punjab: General): At your instance?

Seth Govind Das: Of course, I sent them the Bill and they could have said that they did not support it; but they have all supported it.

So after reading out to you the opinions of our Muslim brethren I wish to say that we have not thought over this question from the communal point of view at all. This is not a communal question. No doubt this question is of such a nature whereby we have to satisfy the people of our country. I wish to say with all emphasis at my command that this is not at all a communal question.

The most outstanding question in this connection is this that if cow-slaughter is totally banned and such cow-pens are established and the Government wish to take upon itself the responsibility of improving the breeds of the milch cattle, then from where the money that would be required for this purpose would come? I feel this difficulty. The first suggestion that I wish to make in this connection is that the funds that have been allotted to these *gaushalas* are quite substantial and sometimes these funds lapse with the disbursement and are not made available for this purpose. If these funds be realized properly by enacting a law to that effect then we will be able to get sufficient funds from these people. Apart from these people, the hon. the Minister of Agriculture will recall the Committee set up by him for this purpose having made a recommendation which leaves an option to the Government for the levy of a new tax in case they decide to enforce prohibition of

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cow-slaughter. The people of this country will not react favourably to the imposition of such a tax side by side with the continuation of cow-slaughter; they, however, will not be found lagging in paying even a new tax quite willingly provided cow-slaughter is banned altogether. The Funds required in this connection, therefore, will be easily available to us. I have the least apprehension in this respect.

Dr. Mono Mohon Das: This levy of a tax for cow protection, is that the opinion of the hon. Member or that of his Cow Protection Society?

Seth Govind Das: So I have to submit that after the attainment of Independence, two things were of paramount importance to me: firstly the issue of a national language and secondly this problem of cow protection. People generally put it to me how I could mix up the two issues and question the relevancy of Hindi and cow protection as in between themselves. I wish to say that one has bearing on our intellect inasmuch as without a proper development and expansion of knowledge our freedom cannot be considered to be an enduring one. The other issue concerns our body. The body cannot be preserved till protection is provided to the cow. Both body and intellect are very closely inter-linked with those two issues; I will rather go to the extent to say that they are inter-dependent. For that reason I have endeavoured to realize both these aims in the post-Independence period. I am very grateful both to the Government and the hon. Members of this Legislature for the large measure of co-operation they gave us. The question of Hindi stands almost solved and the cow-protection has been included as one of the subjects in our Constitution. It is, however, still necessary to go further both in the matter of Hindi as well as cow protection. I desire to convey it to you that the people of India will not be able to understand any meanings of 'Swaraj' till cow-slaughter is banned entirely and further efforts are made to improve its breed. So after the inclusion of this subject in our Constitution, I thought it necessary to bring forward a 'Draft Bill' in that direction. I am doing that now. A gist of all that I have said briefly so far, consists of these five points:

- (1) That cow-slaughter should be banned entirely. Unless this is done, the serviceable and useful cattle will continue to be slaughtered along with others.
- (2) That, as a step towards that end, cow-sheds should be set up.
- (3) That the 'goshalas' should be relieved of the burden of the unproductive and of those cattle which are no longer useful. Such cattle may be kept in separate cow-pens set up for them. The 'goshalas' may thereafter be converted into regular dairy and breeding farms.
- (4) That the improvement and development of the local breeds be undertaken. The cattle should not be sent from one Province to the other where the climate may not suit them resulting in their death ultimately. Such a course is not an appropriate one too. I want to put an absolute end to this practice of despatching the cows from one Province to the other. The bulls may, however, continue to be sent in order to improve and develop the local breeds.
- (5) That proper arrangements be made to recover all the expenditure incurred on this account and if there is still a deficit, a new tax may be levied which, I hope, the people will pay quite willingly.

I think the argument which I have put forward has a great deal of force. The Government cannot justifiably decline to so modify the definition of an abducted person as to treat the children born to a woman after her abduction as the legitimate children of their father. They should not be regarded as abducted persons.

Another point which calls for attention is that the Bill as it is has made the duty of the tribunal undesirably narrow. The tribunal's only duty is to decide whether a person was abducted or not. It is quite possible that an abducted woman, whatever her feelings might have been when she was abducted, has reconciled herself to her lot and is not prepared to go back to her relations in Pakistan. But I am glad to note that my hon. friend Shri Gopalaswami Ayyangar has given notice of an amendment that will rectify the omission to which I and many previous speakers have drawn attention.

Lastly I should like to refer to the power given to an officer of the rank of an assistant sub-inspector of police to enter any house in search of abducted persons and to call upon any female person he likes to help him in the discharge of his duty. I realise that the search for abducted persons cannot be carried on in accordance with the ordinary legal procedure. If Government were to wait till they had a warrant from a magistrate, it is quite possible that the abductor getting scent of the action proposed to be taken by Government might remove the abducted person to another place. But I think it is not desirable that a subordinate officer like an assistant sub-inspector of police should have the wide powers that he will enjoy under the Bill. I think that reference at least to a sub-inspector of police is necessary. I have no doubt that Shri Gopalaswami Ayyangar will be able to refer to many provisions of the law where sub-inspectors enjoy considerable powers. But since Government are departing from the ordinary legal procedure in this matter by not waiting for warrants issued by magistrates before searching a house, they might as well depart from it in certain other respects too. It is a serious position. It is not impossible that a subordinate police officer may be tempted to use the powers conferred on him in an oppressive manner. The Bill requires so to be amended that power may be taken out of the hands of the lower officers. As I have already said no officer less in status than an inspector of police should be given the power to search a dwelling house or other premises to take abducted persons into custody.

These are all the suggestions I have made. There is nothing novel in them. They have been referred to by other speakers. Hon. Members have expressed the same opinions on many features of the Bill in order to impress the Government with the strength of their objections to some of the present provisions of the Bill before the House. My hon. friend Shri Gopalaswami Ayyangar has given notice of several amendments but they do not go far enough. If he accepts two or three more amendments, particularly those relating to the limitation of the Bill and the modification of the definition of an abducted person, I think in such a form the Bill will be more acceptable to the House.

Shri Brajeshwar Prasad (Bihar: General): With your permission, Sir, I seek an elucidation from my hon. friend. Suppose in an interior village in U. P. an assistant sub-inspector of police comes to know.....

An Honourable Member: Say Bihar.

Shri Brajeshwar Prasad: Why not U. P.?

Shri Mahavir Tyagi (U. P.: General): There is no assistant sub-inspector in U. P.

Shri Jaspat Roy Kapoor (U. P.: General): The Bill does not apply to Bihar.

Shri Brajeshwar Prasad: This does not apply to Delhi town only. Suppose an assistant sub-inspector of police comes to know of an abducted person, is that police officer to write to the superintendent of police to come over and rescue the abducted person?

Pandit Hirday Nath Kunzru: I will put another question to my hon. friend. Supposing a policeman goes to a village or a village chowkidar in the course of his rounds comes to know that there is an abducted person in a house, will he be empowered by this Bill to enter the house and take the abducted person into custody?

Shri Brajeshwar Prasad: You can suggest amendments.

Pandit Hirday Nath Kunzru: Will he then not communicate with his superior officers so that such steps might be taken as will be justified by law to make a search of the premises and take the abducted person into custody?

Pandit Thakur Das Bhargava: Assistant sub-inspectors are attached to the same thanas as sub-inspectors. There is no difficulty.

Shrimati Renuka Ray (West Bengal: General): Sir, I do not want to make a long speech but I feel that I must make a few remarks, particularly after the speech made by the hon. Member Shri Brajeshwar Prasad yesterday. I do not think there is any right-minded man or woman in this country who does not support the stand that has been taken by my hon. friend Shri Gopalaswami Ayyangar and who wants any retaliation measures. India is not going to succumb to the ideas of Pakistan. India has her own objectives and standards and whether Pakistan comes up to them or not, it does not mean that India is to go down to the level and the lack of moral standards displayed by Pakistan.

At the same time, while I do support this Bill I also feel that one has to be very cautious in one's approach lest in our zeal to do the right thing, to do justice, we might even overstep the mark. Yesterday my hon. sister, Shrimati Purnima Banerji brought up a point which, I think, was very valid. I do not understand why it was that my hon. friend Mr. Brajeshwar Prasad misunderstood it. She did not speak about concubines or mistresses. She was referring to the fact that after a lapse of time has taken place after these marriages—which are marriages of honour and dignity.....

Shri Brajeshwar Prasad: These marriages are not recognised by law.

Mr. Chairman: Order, order.

Shrimati Renuka Ray: After all in some cases legalised marriages do take place and we have to be very cautious to see that such women who do not wish to cancel such a marriage after so much time has elapsed are not due to our over-zealousness also sent back. Amongst a hundred cases there may be just one case like that. Even so we must be very careful about it. I would particularly request the hon. Minister to take note of this suggestion that on the Tribunal that is appointed there should be at least one woman of understanding and imagination who could look into these cases with great care and attention. It is not the intention of anyone, particularly of those courageous women—the social workers who have been working in this field—to send back any woman who does not wish to go. Therefore I would suggest that great care be taken in regard to this matter and the Tribunal is constituted in such a manner as to ensure that there is not one case in which a woman is sent back who does not wish to go back. We have heard that there have been such cases and that is very

distressing indeed. I think that even at this stage it is possible for the Minister to give an assurance that the Tribunal will be constituted in such a manner that we in this House can feel assured that every case will be sympathetically considered in the manner I have suggested.

In regard to the power given to Sub-Inspectors of Police I too do not feel very happy about it. But I do realise that very great difficulties arise when attempts are made to rescue abducted women. I have some experience of this myself, after the Noakhali riots. I therefore understand how very difficult it is to get back the women unless there are people more or less on the spot capable of taking action. But neither do we want that Sub-Inspectors of Police be so empowered that they can take advantage of the situation. I do not quite understand how we can overcome this difficulty. But I do think that if this Tribunal is properly constituted, if it consists of people with imagination and understanding, and if there is a woman on it who understands women's problems—such a woman will be able to understand whether the rescued women want to go back or not, much better than men can do—I think perhaps it will meet to a great extent the objection to this Bill. At the same time I suggest that a time-limit must of course be fixed and, I hope the hon. Minister will accept the amendment to this effect.

I do not want to take up any more time, but I want to reiterate again that what was said by my hon. friend Shrimati Purnima Banerji should not have been misunderstood that as cases of the kind she has mentioned have taken place, it is essential that we be careful and cautious while we give our support to this Bill.

Shri C. Subramaniam (Madras: General): Sir, I move:

“That the question be now put.”

Mr. Chairman: Closure has been moved.

The question is:

“That the question be now put.”

The motion was adopted.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I do not wish to make any long speech at this stage in reply to the debate that has taken place. On the whole I am glad that the principle and the spirit underlying this Bill have been welcomed generally and that criticisms have been directed only towards particular portions of the Bill. When the first reactions to this Bill became known to me I examined its provisions carefully with reference to those reactions, and I came to the conclusion that there were parts of the Bill which required amendment in order to bring the provisions of the Bill into line with reasonable views thereon. And I am glad to note that in the course of this debate the main and most important provisions of the Bill have not been attacked. A certain number of provisions have been criticised and the amendments of which I have given notice in order to meet those criticisms have also been welcomed. It has, however, been suggested that I have not gone far enough in the way of agreeing to amendment of the provisions of the Bill. I shall certainly deal with such amendments when they are brought up for consideration in the course of our discussion of the clauses of the Bill. At this stage I wish only to refer to a few of the more oft-repeated criticisms against certain aspects of this Bill and the policy that underlies it.

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A great deal has been said about the failure of Pakistan to implement the provisions of the agreement that was entered into between the two Dominions in the way in which it has been done by India. That there is some amount of substance in that criticism nobody can deny. I myself drew attention to this aspect of the matter yesterday. But hon. Members have gone further and said that the attitude and the action that the Government of India have adopted in connection with the implementation of this agreement have been characterised by weakness, that we have not done all that we should have done, and so on. I cannot remember, however, that any hon. Member suggested any concrete action which in his opinion ought to have been taken by the Government of India but has not been taken.

There was only one suggestion that was made by more than one speaker. My hon. friend Pandit Thakur Das Bhargava suggested that there was no harm in looking upon the Muslim girls recovered in India as a kind of hostages whom we should hold in custody till the other Government found themselves able to recover non-Muslim girls in their territory and were in a position to make them over to us or to make them over in sufficient numbers to us in order to justify our making over the Muslim girls recovered in India. That suggestion, though as a matter of political action might find favour with some individuals, is not a policy which, in a case of this sort, a civilised Government, as I said yesterday, should adopt. That is why the Government of India have set their face throughout against anything which implies a policy of retaliation in dealing with this question. I can understand hon. Members suggesting to the Government of India that they should apply a certain amount of pressure in order to make Pakistan do more than she has done in the past. The Government of India have always kept this before their mind's eye. In all the action that they have taken in this matter, involving as it does purely humanitarian considerations, involving a duty that the Government of India owe to unfortunate Muslim girls who had been the victims of what one hon. Member very correctly characterised as the evil passions of malefactors in this country, so long as they recognise that duty it is a wrong, a grievous wrong which we shall be doing to these recovered girls if we hold them in our custody for any considerable time, beyond the time in which we should have restored them to their original relations, merely because certain other girls who had been similar victims in the other Dominion had not been recovered and passed on to us. It is inhumane action and I think the Government of India can never depart from the policy that they have followed in this connection so far. Now, short of that and short perhaps of war, which Rama waged against Ravana for the recovery of Sita, short of that, we can only attempt in the case of another sovereign country to persuade that country so to act in connection with this matter as would be consistent with its claim to be a civilised Government. And that is what we have always tried to do.

As regards weakness on the part of the Government of India, the charge is very easily laid in such matters, but hon. Members unfortunately forget that this is a matter which has to be negotiated between two sovereign Governments and we can only attempt those processes of negotiation and persuasion which can be adopted in such situations for the purpose of bringing the other country into line with correct policy.

Shri Algu Rai Shastri (U. P.: General): May I know if persuasions and negotiations fail shall we keep quiet or shall there be any way other than this open for us to claim the releases of those sisters and daughters of ours who are lying helpless there in Pakistan?

An Honourable Member: What is your suggestion?

Shri Algu Rai Shastri: Open war if need be.

Some Honourable Members: No, no.

Shri Algu Rai Shastri: I say open war with all responsibility.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, if I may say so, that is a very brave suggestion to make and I compliment my hon. friend upon having the temerity to suggest that in this connection. But let us remember that in this particular case we are not monopolists of virtue and the people in the other Dominion are not the monopolists of vice—we are as guilty as they have been and if war can be declared by us on Pakistan, Pakistan can well claim to declare war against us.

Sardar Bhopinder Singh Man (East Punjab: Sikh): It has already declared war against us.

Shrimati Renuka Ray: But our Government is making a genuine attempt to return the girls whereas the same genuine attempt is not made by the Pakistan Government?

The Honourable Shri N. Gopalaswami Ayyangar: Everybody agrees so far as that statement is concerned. The difference is only as regards the methods that we should adopt. Let us go on doing our duty and when we have fully discharged it let us by all means perhaps cite Pakistan before the world as a country which does not respect moral obligations, which will not do all that is possible and practicable for her to do in order to implement the terms of the agreement literally. I said yesterday that so far as those who are responsible for policy in Pakistan are concerned, I have always met with the fullest co-operation. The implementation of that policy has unfortunately to be left in the hands of subordinate officials. The implementation can be successful only if the Government can carry the people with them. Unfortunately, I must say that while I have a good word to say in favour of the Government of Pakistan, the attitude of the people of Pakistan in this particular matter has been the very reverse of being helpful till quite recently.

Pandit Thakur Das Bhargava: If it is true that 2,000 girls are in the possession of Government servants, how can you justify it?

The Honourable Shri N. Gopalaswami Ayyangar: At the time of the Inter-Dominion Conference in Karachi, I spoke rather severely to those in authority in Pakistan about the poor results of recovery action in Pakistan.

Shri Ajit Prasad Jain (U. P.: General): Words break no bones.

The Honourable Shri N. Gopalaswami Ayyangar: At present I am not one of those who would advise India to break the bones of Pakistan—I do not think we have reached that stage so far as this matter is concerned. I do think that we can get tangible, substantial results by continuing the policy that we have been adopting hitherto. I should like to read to you a few sentences from correspondence which has passed between me and the Minister in charge of Recovery of Abducted Women in Pakistan. I complained to him of the poor recovery and the only thing I got from him was:

"I may assure you that we are trying to do our very best to effect recoveries and I shall be glad to discuss any suggestions which you may wish to make in this connection."

and to that I replied:

"It is a matter of immense surprise to me that the phenomenally poor recovery of abducted persons in W. Punjab and other parts of Western Pakistan should be sought to be explained away in the manner indicated in your letter. Recoveries in Pakistan during the past six months have been only about one-eighth to one-tenth of the recoveries made in India. To seize upon this fact as an indication that the number of abducted persons to be recovered in India

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is about eight to ten times the number to be recovered in Pakistan is to take a wholly unrealistic view of actual facts. It is rather indubitable proof that this work is not attended to in Pakistan with the seriousness and energy it demands. The recoveries on our side in recent months have been as good as they have been because of the efficient machinery which we have set up for this purpose regardless of the heavy expenditure involved and of the enthusiasm and energy that our workers have put into this work. The recoveries in Pakistan have been so disappointing because of lack of sufficient staff, of absence of enthusiasm in the staff that is in charge of the work and of a certain pronounced apathy towards this work on the part of the public. I am glad, however, to notice that the Muslim League in West Punjab has, in the last few days, evinced an active interest in this work and I hope the appeal issued by its leaders will produce better results in the near future."

I wound up by saying:

"In the name of humanity, I would earnestly urge upon you the imperative need for speeding up this work. The extremely poor results in Pakistan are having the most prejudicial reactions on public opinion in India which is becoming restive and might express itself in ways which will prejudice the good work that is being done here."

Shri Mahavir Tyagi: Very good.

The Honourable Shri N. Gopalaswami Ayyangar: They are hard words, but some hon. Members may think they would not break any bones. But I do think that since that correspondence took place, there has been a slight improvement in the work that is being done in Pakistan and I will continue to express the hope, in spite of what my hon. friend Pandit Kunzru has said, that things will look a little better in the future so far as recoveries in Pakistan are concerned than they did in the past.

An Honourable Member: On what date was that letter issued?

The Honourable Shri N. Gopalaswami Ayyangar: I cannot find the date. It was quite recently I think.

Shri Suresh Chandra Majumdar (West Bengal: General): You stated that about 2,000 of these unfortunate women are in the possession of Government servants in Pakistan. It may be said by the Pakistan Government in respect of the others that they are not being helped by the public and that that is one of the causes for the slow recovery, but what about these 2,000 women who are in the possession of Pakistan Government servants?

The Honourable Shri N. Gopalaswami Ayyangar: That figure of 2,000 was based upon information which had been supplied.....

Shri Suresh Chandra Majumdar: I do not mean the figure.

The Honourable Shri N. Gopalaswami Ayyangar: Please listen to me. That figure was based on information supplied to us and we passed that on to them and we expect that everyone of those 5,000 cases in respect of which we furnished clues of which we had been put in possession will be investigated. I am not in a position yet to inform the House as to how much of this information has been verified in Pakistan and what the results of that verification are. When I get that information, I shall certainly take the House into full confidence about it.

Now, all this thing about what happens in Pakistan, let me point out to the House, is absolutely irrelevant to the Bill that I am asking the House to pass. That Bill has reference to the legal authority that we should have and the procedure that we should follow in India for the purpose of recovering abducted Muslim girls who are still to be found in India. I was only mentioning this thing in reply to the suggestion of hostages.

There was one other point which has emerged from this debate. An hon. Member attempted to make it out that the staff engaged on this work has been pushing into Pakistan some women who are unwilling to go there. Let me

assure the House that I have not come across a single case of an adult abducted woman who had been recovered and who was pushed into Pakistan against her will. It is true that when she is taken first into custody, her wishes are not taken into account. The idea is that in the environment that she is in at that moment, she is not a free agent, she has not got the liberty of mind to say whether she wants to leave that environment and go back to her original environment or whether she should stay here. For that reason, her wishes are not taken into account at that stage, but she is brought into a camp. Then attempts are made to put her relatives in touch with her and when the environment has changed in that way, she has the liberty to say what she likes. If she says, "I have been in the midst of my relatives, but I want to go back to the person from whose house you took me." If she says that nobody pushes her into Pakistan. Even if she has been taken to the Lahore camp for the purpose of being put into contact with her relatives, if she says she does not want to go back to her relatives, she is brought back to India and set free.

An Honourable Member: What is the number of such cases?

The Honourable Shri N. Gopalaswami Ayyangar: The unfortunate part of it is there has been hardly any case where after these women were put in touch with their original fathers, mothers, brothers or husband, any one of them has said she wanted to go back to her abductor—a very natural state of feeling in the mind of a person who was, by exercise of coercion, abducted in the first instance, and put into a wrong environment.

Pandit Balkrishna Sharma (U. P.: General): On a point of information, may I know the number of women who have been brought back from the Lahore camp because they refused to go back to their relatives?

The Honourable Shri N. Gopalaswami Ayyangar: I have answered that question. I am not aware of a single case where, after the woman was brought into contact with her original husband or father or mother, she has expressed a wish to go back to her abductor. That I said is perfectly natural.

Shri Ajit Prasad Jain: Has there been any case of a non-Muslim woman who was taken to the Jullundur camp who wanted to go back to her abductor in Pakistan? I want to know the position the other way.

The Honourable Shri N. Gopalaswami Ayyangar: I am not aware of any such case either. (*Shri Mahavir Tyagi:* Girls have no mind. They adjust themselves to whosoever they are with.)

I want to assure Mrs. Renuka Ray and Mrs. Purnima Banerji that there is no such case where a woman after she has been taken away from her abductor and put in new environment and has expressed her willingness to remain in India—which she is perfectly at liberty to do—has been pushed into Pakistan. Nobody has pushed such a woman into Pakistan.

Then, there was something said about the Assistant Sub-Inspector. The Assistant Sub-Inspector, I take it, is a person in charge of a Police Station. Ordinarily, according to the procedure that is followed, he acts upon information which is supplied to him by a social worker and our social workers are very carefully chosen. They give him the information. It is possible that, under the law, he could act even in the absence of information from a social worker. He might get information on his own. But you have to remember that if a person who is in charge of a police station gets information, the law allows him to make a search. You need not always suspect him of being anxious to abuse his authority, and in this particular matter, as some hon. Members have

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already pointed out, it is not desirable that there should be delay between the receipt of the information about the concealment of an abducted woman and her recovery from the place where she is hidden.

And I think it makes for the success of this work that this power should be with the officer who is ordinarily in charge of a police station.
5 P. M. What will happen if you give the power to the Inspector of Police? You will lose all the advantages that you have of recovering these women quickly with the help of an officer who has the power and who might be expected to be more or less on the spot.

Now the other point that was mentioned was about the constitution of this Tribunal. There was a suggestion that it should consist of Judges. Some hon. Members did not quite appreciate that suggestion. There was another suggestion that it should include a matronly woman as member. I quite sympathise with it. I think the presence of a matronly woman may make for a more human approach to this problem. I quite realise that. But, so far as the law is concerned, the constitution of this Tribunal is left to rules and it is important in this matter, as in other matters in connection with this Legislature, that when we change the constitution of this Tribunal it should be by agreement between the two Dominions. And I can only give this assurance that this particular suggestion I will try to take up with the Pakistan Government and, if it is possible to come to an agreement upon it, we shall make the necessary changes in the constitution of the Tribunal.

Mr. Chairman: Does the hon. Minister intend to finish his speech today? How long does he expect to take?

The Honourable Shri N. Gopalaswami Ayyangar: If we are not going on with the clauses today, then, perhaps, if you give me ten minutes tomorrow morning, I will finish it.

Shri R. K. Sidhva: (C.P. and Berar: General): Let us finish it today, Sir.

Some Honourable Members: No, we have the party meeting. This Bill may be taken up tomorrow.

The Honourable Shri N. Gopalaswami Ayyangar: May I ask, Sir, whether it is your intention to finish the consideration of the clauses also?

Mr. Chairman: No; the clauses will be taken up tomorrow.

The Honourable Shri N. Gopalaswami Ayyangar: In that case I would very much like to take ten minutes of the time of the House tomorrow morning.

Mr. Chairman: The House stands adjourned till a quarter to eleven of the clock tomorrow.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Saturday, the 17th December, 1949.

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Saturday, 17th December, 1949.

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Shrimati G. Durgabai (one of the Panel of Chairmen) in the Chair.

QUESTIONS AND ANSWERS

No Questions: Part I not published

REHABILITATION FINANCE ADMINISTRATION (AMENDMENT) BILL

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

Mr. Chairman: The question is:

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

The motion was adopted.

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

INSOLVENCY LAW (AMENDMENT) BILL

The Honourable Dr. B. R. Ambedkar (Minister of Law): I beg to move for leave to introduce a Bill further to amend the law relating to insolvency.

Mr. Chairman: The question is:

"That leave be granted to introduce a Bill further to amend the law relating to insolvency."

The motion was adopted.

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

[At this stage Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) took the chair.]

ABDUCTED PERSONS (RECOVERY AND RESTORATION) BILL—contd.

The Honourable Shri N. Gopalaswami Ayyangar (Minister of Transport and Railways): Sir, when the House rose last evening, I was dealing with the criticism that had been urged against the provisions in the Bill which empowered Assistant Sub-Inspectors to take action for recovery of these abducted

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persons from wherever they are found to be, and I pointed out that there was no very great risk of their abusing the powers that are entrusted to them because they take action ordinarily on information supplied by social workers practically all of whom are women and these recoveries are made when the social workers are present with them. I can assure hon. Members who have expressed doubts as to the possibility of abuse of authority in these matters that no cases of any consequence have come to our notice so far of any such abuse, and after all an Assistant Sub-Inspector is an officer who is in charge of a Police Station and if he does misbehave, there are ways of pulling him up and seeing that such abuses are not repeated. It is obviously a very desirable thing that these Police Officers should have this authority so that any possibilities of non-recovery of abducted persons known to be in particular places might be avoided.

Then, Sir, towards the close of the debate, stress was laid on the fact that in the amendments of which I had given notice already, I had accepted only certain suggestions of hon. Members but there were two or three other important matters in respect of which they would like me to reconsider my attitude and to see if it was not possible for me to meet them so far as these objections are concerned. One of the most important things that they laid stress on was the inclusion of children born after 1st March 1947 to abducted women in the definition of abducted persons. This is an addition to the definition of abducted persons, an addition which is not found in the two Ordinances that were already promulgated and this is also a matter which is not included in the definition of abducted persons in the Pakistan Ordinance. But in the actual working of the law, our own officers felt a considerable amount of inconvenience which was caused by the fact that there were children born to these persons after they had been abducted and that the presence of these children was an impediment in the way of their being taken out of the environment in which they were with a view to enable them to make a free choice, and as a result of the examination of this suggestion, it was thought desirable to add these words to the definition of abducted women.

Shri H. J. Khandekar (C.P. and Berar: General): On a point of information; if these children born in India are allowed to go back to Pakistan with their mothers—abducted ladies—will not these children be called by the Pakistanis as the children of the *kafirs*?

The Honourable Shri N. Gopalaswami Ayyangar: If the hon. Member's observation is intended to suggest that these children born after the 1st March 1947 in India would not be welcome in the original homes of these abducted persons when they go back, I think there is a good deal to be said for his point of view, and that was one reason why this definition was proposed to be amplified. These children are in a very unfortunate position; in the home in which they happen to be born, the only person who is anxious about their welfare is the mother with the departure of whom they would not be very welcome in that home. When this person is recovered and sent to Pakistan, if she takes the child with her, in ninety cases out of one hundred, it will not be welcome in the original home of the Muslim woman. They are really children who in many cases are unwanted, but they have been brought into this world and humanity requires that they should be properly looked after. It is desirable that they should be taken out of the home where they were born and where they will not be welcome after the mother had been taken away. They cannot be thrown upon a home which does not welcome them, but the mother when she leaves the abducted person's home, naturally wishes to take the child away from surroundings where it would not be welcome, and

that was one reason why along with the person originally abducted, it was thought desirable that the child born to that person after abduction, should also get the benefit of this law as regards recovery. What after recovery should be done to the child is a matter to be decided in each case. Sometimes if the original home is willing to take such children, they are sent to the other Dominion. If on the other hand, they are not welcome there, other arrangements are made for their being put in homes and their rehabilitation and up-bringing arranged for otherwise. That was the reason why this definition was enlarged.

Shri V. S. Sarwate (Madhya Bharat): May I ask the hon. Minister whether this provision is to over-ride the law of guardianship?

The Honourable Shri N. Gopalaswami Ayyangar: I do not know about the law of guardianship. It all depends upon how you treat the child, whether it is a legitimate child or an illegitimate child and with regard to a child so long as it is a baby, I think the mother should have the first preference as regards the custody, and when she cannot have the custody, her wishes must have the greatest possible consideration. I am, however, at one with Pandit Thakurdas Bhargava when he suggested that even if those words could not be dropped from the definition, it is very desirable that the case of each child should be judged on its own merits, and custody arranged for according to the best interests of the child itself and according to the wishes as far as possible of the mother concerned. I should ask the House to let me retain these words in the definition. I have already taken steps to persuade the Pakistan Government to introduce similar words in the definition of an abducted person in Pakistan, and I would ask that this very desirable improvement of the definition should be allowed to remain.

Now, Sir, a great deal was said about an abducted girl not being forced to go to Pakistan against her will. I have already said a great deal about it and I can give the assurance to the House that if after being placed in surroundings when the abducted person could make a free choice, she does want to go back to the abductor, she will not be forced to go back to her original home. I can give that assurance.

There was something said, Sir, about the extension of the Act to the United Provinces and to Rajasthan. In both these cases, we have had the consent of the Governor of the U.P. in the one case and the Rajpramukh of Rajasthan Union in the other case for the application of this legislation to their respective areas.

Shri Ajit Prasad Jain (U.P.: General): Are the Government aware that the disturbances in the U.P. were confined only to the Western Districts, that is, the Division of Meerut and parts of Rohilkhand and in 11 A.M. Rajasthan where they were confined to a few states and not to the whole of Rajasthan?

The Honourable Shri N. Gopalaswami Ayyangar: I believe the hon. Member is correct in what he said. I would only say this that there have been some recoveries, not very many from the U.P. and so far as Rajasthan is concerned in all about three months ago there had been recoveries to the tune of 275. That is why these areas have been included so far as the application of the Act is concerned.

Then, Sir, my hon. friend, Shri Rohini Kumar Chaudhuri made a number of suggestions, namely, that after these persons were recovered, there should be some provision for releasing them on bail. They should be produced before a magistrate within twenty-four hours and there should be some kind of a

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trial in a magistrate's court for acts of indiscipline which may be committed under the regulations framed for running the camps. Now, Sir, it is, I think, not quite appropriate that we should look upon these 'recovered persons' as akin to accused persons, persons accused of offences. What we do is to recover persons who, as a result of coercion are in confinement in particular places, to remove them to a place where they would feel freer and to look after them in that place until they are restored to their original relatives. To apply the provisions of the Criminal Procedure Code which appertain to accused persons to these recovered abducted persons would be wholly beside the mark, and I think, it is altogether unnecessary, nor is it desirable that these provisions should be incorporated in legislation of this type. In fact, my hon. friend went on to ask: Why not simply invite applications from abducted persons who wish to go to the other Dominion, to their original relatives, and after receiving those applications, why not make arrangements to facilitate their going there? Well, if that is the policy to be adopted, then we could not have recovered this large number of over 12,000 persons whom we have recovered in India. They are in such surroundings that they could send no applications of that sort and they will be prevented from sending applications. We have in our experience found that it is necessary and in many cases we have had to pull them out of their existing confined surroundings for the purpose of enabling them to make a free choice.

Lastly, Sir, something was said about limiting the duration of the Act and I wish to assure the House that I am quite in sympathy with that idea and, at the proper time, I shall be accepting one of the amendments that have been given notice of for the purpose of limiting the duration of the Act. I do not wish to say more.

Shri Brajeshwar Prasad (Bihar: General): On a point of information, I want to ask the hon. Minister, two clear questions: Do the Government recognise the conversions that are said to have taken place of these abducted women from Islam to Hinduism? Secondly, do the Government recognise the marriages that are said to have taken place between the abductors and the abducted?

The Honourable Shri N. Gopalaswami Ayyangar: I thought I read out from the Inter-Dominion Agreement statements which related to both the observations that my hon. friend has raised. The two Governments have agreed that neither forced conversion nor forced marriages would be recognised by either Government.

Mr. Deputy-Speaker: The question is:

"That the Bill to provide, in pursuance of an agreement with Pakistan, for the recovery and restoration of abducted persons, be taken into consideration."

The motion was adopted.

Sardar Hukam Singh (East Punjab: Sikh): Sir, I move:

"That in part (a) of sub-clause (1) of clause 2 of the Bill, for the words 'who is, or immediately before the 1st day of March 1947,' the words 'who is, or on the 15th July 1947' be substituted."

Sir, my object in moving this amendment is this: I feel that certain innocent persons have been included in this definition who ought to have been kept outside the scope of this clause. It is common knowledge that whereas all these troubles, abductions or other political disorders began in Pakistan, in Rawalpindi district and other places on 1st March 1947, here on this side,

here was no trouble up till 1st August. During this period from 1st March to 1st August,—I have given a date 15 days earlier, 15th July 1947—my belief is that, there may be cases—their number may be small—which are not covered as cases where any coercion has been used, or where any force was exercised. Some persons may have got themselves converted honestly as they were doing before and it was a mistake, I believe, if it is contained in the provisions of the agreement to give one and the same date for both the Dominions. Therefore, my object is that those persons, who during the period when there was no trouble at all on this side, when there was no force or coercion on this side, got themselves converted should not be included in this definition, and therefore a different date should be put in this clause.

The second point is that these words "or immediately before that date" are very wide. Why should these words be there? They are indefinite. They do not specify any period. When this recovery work is left to Assistant Sub-Inspectors or police officers specially authorised by the Government who may be even of lower rank, I feel I have an apprehension that persons who honestly got themselves converted may be harassed and these words "or immediately before the 1st day of March 1947" may be misused, and those persons made over and sent to Pakistan, though really they are not victims of circumstances and not subjected to passions, or bias. Therefore, my submission is that this amendment should be accepted by the Mover.

Mr. Deputy-Speaker: There are four amendments here limiting it to an earlier date or extending it to a later date. They fall under one category. If the hon. the Minister agrees, I shall ask all these amendments to be moved so that once for all he may reply to all these. Then we may go to the other amendments regarding "against his or her wish".

Sardar Hukam Singh: Sir, I move:

"That in part (a) of sub-clause (1) of clause 2 of the Bill, after the words 'after that day' the words 'and before the first day of January, 1949,' be inserted."

The object of this amendment I explained when I took part in the general debate.

Mr. Deputy-Speaker: May I suggest that the hon. Members, including the hon. Members who have tabled these amendments, have taken part at great length in the original discussion and these matters have been covered; therefore, they may merely move the amendments and place the matter before the House without elaborate discussions.

Sardar Hukam Singh: I only want to submit that there must be a date because, otherwise, even voluntary conversions would be included and that is not the purpose of the Bill. That is all I want to say.

Sjt. Kuladhar Chaliha (Assam: General): Sir, I move:

"That in part (a) of sub-clause (1) of clause 2 of the Bill, for the words '1st day of March, 1947' the words 'after the 16th day of August, 1947' be substituted."

I shall give my reasons. If you put in a date other than the date of declaration of Independence, then, you open up a series of dates. As you know, in Calcutta on the 16th August 1946, there was a great massacre, there were abductions and all sorts of things. One never knows where it will lead to. If you limit it to the date on which Independence was declared or was given, then, if there was any abduction subsequent to that date, on both sides, by Hindus and Muslims, they may be taken cognisance of. Beyond that date, the position was different. There was a certain procedure and

[Sjt. Kuladhar Chaliha]

certain rules; The Indian Penal Code could have been invoked and redress had. Not having taken advantage of that, I think we should not go back. I have not been able to understand why this date 1st March has been given here. If this date is given, people in West Bengal may have every reason to say that the date should be 16th August 1946, and Government may find it very difficult not to concede to that request. Therefore, the best course would be to accept the date on which Independence was declared or we were given this status. That is my suggestion.

Mr. Deputy-Speaker: Pandit Thakur Das Bhargava's amendment is covered by the second amendment of Sardar Hukam Singh. I shall put these amendments before I allow further discussion.

The Honourable Shri N. Gopalaswami Ayyangar: May I point out that I have given notice of an amendment more or less the same as the amendment of Pandit Thakur Das Bhargava and Sardar Hukam Singh?

Mr. Deputy-Speaker: Amendments moved:

- (i) "That in part (a) of sub-clause (1) of clause 2 of the Bill, for the words 'who is, or immediately before the 1st day of March 1947,' the words 'who is or on the 15th July 1947,' be substituted."
- (ii) "That in part (a) of sub-clause (1) of clause 2 of the Bill, for the words '1st day of March, 1947,' the words 'after the 16th day of August, 1947' be substituted."
- (iii) "That in part (a) of sub-clause (1) of clause 2 of the Bill, after the words 'after that day,' the words 'and before the first day of January, 1949,' be inserted."

श्री लक्ष्मीनारायण साहू : माननीय उपवाचस्पतिजी, क्लॉज २ (clause 2) के बारे में पहले तो इतना कहना चाहता हूँ कि एबडक्टेड पर्सन्स (abducted persons) कौन होते हैं इसका जानना हमारे लिये बहुत मुश्किल होता है और एबडक्टेड पर्सन्स के लिये हमें मैन (men), वीमैन (women) और चिल्डरन (children) तीनों को ही सोचना चाहिये। यहां तक हमने जितनी आलोचना की है उस आलोचना में चिल्डरन और वीमैन को ही गिनते हैं कि कितने एबडक्ट (abduct) हुये हैं। लेकिन मैं यह जानना चाहता हूँ कि मैन भी एबडक्ट हुये होंगे, इसके बारे में कोई आलोचना नहीं हुई है।

Shri Mahavir Tyagi: Are men also abducted by women?

Shri Lakshminarayan Sahu: Yes.

Shri Mahavir Tyagi: Women cannot abduct men.

श्री लक्ष्मीनारायण साहू : फिर जिस तरह लोग एबडक्ट हुये हैं वह किस एटमास्फियर (atmosphere) में एबडक्ट हुये हैं इसको भी हमें सोचना चाहिये। इस सब बखेड़े को निकालने के लिये मैं देखता हूँ कि जिस रोज हम स्वराज्य पा गये और इस देश के २ टुकड़े हो गये वही रोज हमको मान लेना चाहिये। उसी टाइम (time) से जो कुछ एबडक्शनस (abductions) हुये हों उनको पाकिस्तान को ठीक करना चाहिये और वही हिन्दुस्तान को ठीक करना होगा। लेकिन जब तक पाकिस्तान हम लोगों के साथ ठीक तौर से व्यवहार नहीं करता तब तक हम कुछ नहीं कर सकते हैं। इस घर में कई दफा आलोचना हुई है कि हम लोग जितना काम करते

हैं उसमें पाकिस्तान हम लोगों की मदद नहीं देता। कभी कभी मुझे तो ऐसा ख्याल आता है कि हम लोग इतना नरम हो गये। रामकृष्ण परमहंस का एक उपदेश है। एक सांप आदमियों को काटता था और आदमी सांप को मारते थे। तो एक रोज एक सन्यासी आया। सांप उनका भक्त बन गया और फल यह हुआ कि सांप ने किसी को नहीं काटा। फिर जो लड़के थे वह उस सांप को घर से निकालने पर मारते थे और वह सांप घर के भीतर चला जाता था और उसको इस तरह खाने पीने को कुछ नहीं मिला। तो वह बहुत बूबल पतला हो गया। फिर सन्यासी वापस आया तो उसने पूछा कि तुम्हारी यह हालत कैसे हो गयी तो उसने कहा कि आपने मुझे किसी को मारने के लिये मना किया था। तो सन्यासी ने कहा कि मैंने काटने के लिये मना किया था लेकिन यह नहीं कहा था कि अपने बचने के लिये फूँ फूँ भी मत करना। तो हम लोग इतना नरम हो गये हैं कि फूँ फूँ भी नहीं करते। तो इस लिये मैं चाहता हूँ कि जो कुछ हो गया वह हो गया। अब यह बखेड़ा खत्म करके १५ अगस्त से स्वराज्य हो गया है और १६ अगस्त से बरताव क्या है उसका सोच विचार करना चाहिये। इस बात को दो वर्ष हो गये हैं। तो मैं चाहता हूँ कि १६ अगस्त से जो कुछ हुआ है उसका विचार करना चाहिये और इसी लिये मैंने १६ अगस्त इस दफा में रखा है।

(English translation of the above speech)

Shri Lakshminarayan Sahu (Orissa: General): Sir, as regards clause 2, in the first place I would like to say that it becomes very difficult for us to ascertain as to who are the abducted persons and we must take into consideration men, women and children all the three in this category. The result is that in the course of the discussions here we have taken into consideration only the number of women and children that have been abducted. But I wish to say that some men also would have been abducted. There has been no discussion on this point.

Shri Mahavir Tyagi (U.P.: General): Are men also abducted by women?

Shri Lakshminarayan Sahu: Yes.

Shri Mahavir Tyagi: Women cannot abduct men.

Shri Lakshminarayan Sahu: Then we have to take into consideration the circumstances under which the people have been abducted. In order to overcome this difficulty I say that we should accept that date from when we attained Swarajya and the division of our country took place. The abductions that have taken place since that time should be set right by Pakistan and India will have to follow suit. But till the time Pakistan does not behave squarely with us we cannot do anything. It has been alleged several times in this House that Pakistan does not accord us any help in whatever efforts we make in this direction. At times I begin to think that we have become too humble. Shree Rama Krishna Paramhansa has given an example. A snake used to bite people and the people waited for an opportunity to kill it. One day a sadhu came there. That snake became his votary and the result was that the snake did not bite any more persons. Then afterwards it so happened that whenever that snake came out of his hole the children used to strike him, and so he had to draw inside the hole. Thus for a long time he could not get anything to eat and so became very lean and thin. When

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the *sadhu* returned he asked the snake as to how he came by that condition. The snake replied that he himself had asked him not to bite anybody. The *sadhu* retorted that he had asked him not to bite but had never asked him not to hiss even in order to save his life. We have become so humble that we do not even hiss. So I wish to say that let bygones be bygones. Since 15th August the matters have come to a head as we have attained *Swarajya*. Now we should take into consideration the attitude after the 16th August. Two years have passed since this incident took place. So I wish that whatever has taken place after 16th August should be taken into consideration and for this reason only I have substituted the word 16th August in this clause.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I may straightaway say that I accept the last amendment by Sardar Hukam Singh. In fact I have myself given notice of an amendment to the effect:

"That in part (a) of sub-clause (1) of clause 2 of the Bill, after the words 'after that day,' the words 'and before the first day of January, 1949,' be inserted."

As regards the other amendments moved by two hon. Members, one referring to July 1947 and the other to August 1947, I have first of all to say that the clause as it stands which fixes the 1st March 1947 as the crucial day is the result of an agreement between the two Dominions. The disturbances in connection with which these abductions took place started round about that date and that is why the words "immediately before the first day of March 1947" are mentioned. With regard to the intervening period, between 1st March 1947 and either July 1947 or August 1947, I can see the point that so far as India is concerned there was not as much of this kind of activity on the part of our people during that intervening period as there was on the Pakistan side of the border. But we had to get an agreement with the Government of Pakistan and our social workers could not rule out altogether the possibility of there having been a few stray cases of this description between these two dates and for the purpose of ensuring the recovery of non-Muslim girls who were abducted in Pakistan immediately before the 1st March 1947 it was considered right and reasonable that we should accept this date.

As regards the possible abuse of the provisions of this clause in India I can only say that the recovery staff are our own people, the social workers are our own people, and there is hardly any possibility of any wrong cases being subjected to this procedure in this connection. I would therefore ask that the terms of the agreement should be adhered to in this clause and this particular amendment should not be incorporated in the clause as it stands.

Mr. Deputy-Speaker: The question is:

"That in part (a) of sub-clause (1) of clause 2 of the Bill, for the words 'who is or immediately before the 1st day of March 1947,' the words 'who is, or on the 15th July 1947,' be substituted."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That in part (a) of sub-clause (1) of clause 2 of the Bill, for the words '1st day of March, 1947,' the words 'after the 16th day of August, 1947,' be substituted."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That in part (a) of sub-clause (1) of Clause 2 of the Bill, after the words 'after that day,' the words 'and before the first day of January, 1949,' be inserted."

The motion was adopted.

Sjt. Rohini Kumar Chaudhuri (Assam: General): Sir, with your permission I shall move both of my amendments. I move:

"That in part (a) of sub-clause (1) of clause 2 of the Bill, after the word 'living', the words 'against his or her wish' be inserted."

I also move:

"That in part (a) of sub-clause (1) of clause 2 of the Bill, for the word 'control,' occurring in line 5, the word 'restraint' be substituted."

Sir, the object of my amendments—at least of the first one—is to find out definitely whether it is the intention of the author of this Bill to apply the provisions of this Bill to those persons who are living peacefully and who do not wish to be forced to go out of their present place of residence. Is it intended that those persons who technically come under the definition of the expression "abducted persons" but who have settled down here and are living here peacefully and wish to continue to live here should be forced by virtue of the provisions of this Bill to be taken out of their present place of residence where they are living happily? Sir, if you have not followed me, let me illustrate my point by an example. Suppose Mr. K is a progressive Hindu and is an aggressive supporter of the Hindu Code Bill. Suppose during the last riots in Delhi he saved the life of a Muslim girl and suppose on account of the fact that neither her relations cared to take her away nor did the authorities separate them they are living happily or are married in the meantime, or suppose, if Mr. K is a bachelor, he is going to marry her—everything is settled and he is going to marry her—will you compel that girl to be taken out of her present place of residence? Again, suppose that Mr. K is not a bachelor but is a married and elderly person and he has rescued the girl and has adopted her as his daughter. Will you compel her to be separated from Mr. K?

Shri Suresh Chandra Majumdar (West Bengal: General): Will you concede this privilege which you will claim for your own people here to the Pakistan also?

Sjt. Rohini Kumar Chaudhuri: I am not thinking of Pakistan at all.

Shri Suresh Chandra Majumdar: But if this thing is good here it must be good for the Pakistanis too.

Sjt. Rohini Kumar Chaudhuri: What is good in one place must be good in any other place. But my point was this. Let us be perfectly clear about this. I submit that if my amendment is accepted, those who are not living here against their wish will not be disturbed by the provisions of this Bill.

Incidentally I want the word "restraint" to be used in place of the word "control". I think we have not yet come to a stage when a husband does not control his wife or a father his daughter. If my hon. friends the lady Members of this House mean that there should be absolutely no control of the husband over his wife and of the father over his daughter, that is a different thing. But I submit that up till this day husbands do exercise some control over their wives.

Mr. Naziruddin Ahmad (West Bengal: Muslim): No, no. It is the wives who control the husbands.

Sjt. Rohini Kumar Chaudhuri: That may be your experience, but that is not my experience. I submit that if my first amendment is accepted then my second amendment necessarily follows. So long as the woman is not left astray she ought to be allowed to remain here.

Mr. Deputy-Speaker: What is the reaction of the hon. Minister? If he does not propose to accept it, possibly the hon. Member may not press his amendments.

The Honourable Shri N. Gopalaswami Ayyangar: I am not accepting the hon. Member's amendments.

Sjt. Rohini Kumar Chaudhuri: Sir, this is an important point and the whole principle of the Bill is involved. You may put the amendments to the House.

Mr. Deputy-Speaker: The question is:

"That in part (a) of sub-clause (1) of clause 2 of the Bill, after the word 'living', the words 'against his or her wish' be inserted."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That in part (a) of sub-clause (1) of clause 2 of the Bill, for the word 'control', occurring in line 5, the word 'restraint' be substituted."

The motion was negatived.

Shri Mahavir Tyagi: I wonder if you are going to permit a general discussion on the clause before it is put to vote. In that case I may not like to move my amendment.

Mr. Deputy-Speaker: After all the amendments are disposed of, if any hon. Member wants to speak on the clause he will certainly have an opportunity.

Shri Mahavir Tyagi: I think, Sir, I better move my amendment.

The Honourable Shri N. Gopalaswami Ayyangar: Perhaps the hon. Member will reconsider his present intention if I inform him that I have practically accepted the substance of his amendment and have myself given notice of one. That carries out his idea but I have put it in different language.

Mr. Deputy-Speaker: The hon. Member may compare his amendment with that given notice of by the hon. Minister.

Shri Mahavir Tyagi: If the amendment of my hon. friend Shri Gopalaswami Ayyangar is accepted it would read "under the control of any other individual or family". Now, "family" has been talked about previously, but the word "individual" has not been used in any of the lines above. So, if it is put as "any other individual or family" then one would be at a loss to know as to what the former individual is—against whom this "other" individual is being distinguished. So I think the position may be made clear by a reshuffling of both the amendments; my amendment namely "any individual or family" seems better.

Mr. Deputy-Speaker: It obviously applies to cases where any such woman is living with another. If she is staying here independently there is no question of abduction—she cares to be in this country and this Bill does not apply to her. She is not an "abducted woman" as she is not under the control of any person. I think there is no necessity for the word "individual" to appear in an earlier place.

Shri Mahavir Tyagi: In his amendment there are the words "any other"

Mr. Deputy-Speaker: "Any other" individual means that she is under the control of some persons other than herself.

Shri Ajit Prasad Jain: The whole objection is this. The word "family" has been used before. An abducted person must have been separated from his family and must be living in another family. But before this another individual comes in no mention of any individual is made and so the words "any other individual" create a sort of confusion.

Mr. Deputy-Speaker: "Abducted" is not the word used but "separated". "Abducted" qualifies the word "person" but in a later line you find "separated from his or her family". There may be a person separated but who may not be abducted. It is open to a lady to live by herself in a particular place.

The Honourable Shri N. Gopalaswami Ayyangar: May I explain the position. I quite appreciate the drafting finesse which both the previous speakers have stressed. Their drafting conscience has been oppressed by the use of the word "other" which qualifies both individual and family, but as no individual is mentioned in the previous part of the clause they think the use of the word "other" is perhaps inappropriate. That, I take it, is my hon. friends' point. But a woman who is separated from her family can either live with a person or an individual or in another family. Now, that person must be an individual not belonging to her own family, the family from which she has been separated. Though it may be possible to use some form of words in a more elaborate way which would carry out the idea which the two hon. friends have, I don't think in substance there need be any objection to the language that has been used. It is recommended by our own drafting experts and it is unlikely to be misunderstood.

Shri Mahavir Tyagi: I have no objection because the sense is there, but then the words "an individual or family" will be clearer as I have proposed. In the list of amendments my amendment reads "and individual or family". I don't know how the word "and" has crept in. My amendment was "an individual or family". Instead of "any other", it would be better if you accept the amendment "an individual or family".

The Honourable Shri N. Gopalaswami Ayyangar: We have got to say some family other than the original.

Mr. Deputy-Speaker: If she is back in her own family what will happen?

Shri Mahavir Tyagi: That can't be because she cannot be separated and at the same time live with her own family.

Shri B. L. Sondhi (East Punjab: General): The words are "has become separated" and not "had become separated" which means that even up to this date she continues to be separated.

Shri C. Subramaniam (Madras: General): The difficulty if we use the words "an individual or family" will be this. A Muslim girl in Pakistan married to a Muslim boy in India between these two dates will be separated from that family and will be living under the control of an individual or family in India. Technically speaking, the definition will apply to her also. She will be an abducted person under the definition:

"'Abducted person' means a male child under the age of sixteen years or a female of whatever age who is, or immediately before the 1st day of March 1947, was a Muslim...."

So here is a Muslim girl who was a Muslim girl before that date and who on or after that date has become separated from her family.

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): The family includes husband.

Shri C. Subramaniam: Before the marriage she had a family, from that family she becomes separated because of the marriage and technically she is living with another individual or under the control of another individual or family. Therefore, I am afraid this definition will apply even to such a girl. We have not used the words "taken by force" to qualify "abducted". That being so, even if it is voluntary separation from family and living with another individual, it will bring her under the definition of the "abducted" person.

The Honourable Shri N. Gopalaswami Ayyangar: The main ground on which I agreed to accept the substance of my hon. friend Shri Mahavir Tyagi's amendment is this, that there have been cases where abducted Muslim girls have been found living with Muslims in this country. That is to say, there have been Muslim abductors as well and girls have been recovered from such persons. I thought that my hon. friend's position was that it should not be limited to non-Muslim families or individuals but must cover Muslims also and that is why I agreed to accept this position. There have been cases of that sort.

As regards the point raised by my hon. friend here that there may be cases of legitimate marriage between a Muslim girl of Pakistan with a Muslim of India between these two dates and that they also might come within the four corners of this definition, it is possible that such a thing might happen, but we have got to take this into consideration that even if there is an initial recovery of such a person further enquiries are held and if it is found to be a legitimate union and she is living with a person from whom she does not deserve to be separated, then she is allowed to go back to the person from whom she was taken. But I don't think any such cases have occurred, they are not likely to occur either.

Shri C. Subramaniam: The police officer is given power to go and seize and put her in a camp. Can you allow that to happen when there has been a legitimate marriage? Suppose a police officer goes and seizes a person under the definition as it stands you cannot find fault with him. He will say, "She is an abducted person and I am acting only under the four corners of the Act". If supposing a police officer takes into his head, even though she is legitimately married and lives voluntarily with her husband, to spite a person he might go and seize that person and say, "I am within the four corners of the law and you cannot find fault with me". Therefore, we should take care that such cases don't occur and the definition of abducted person suitably altered.

Shri Ajit Prasad Jain: I would request the hon. Member to carefully examine this definition of an abducted person. I think it will become a little too broad after the amendment which the hon. Minister has suggested. Who is an abducted person? If it is a male he must be less than 16 years of age. If it is a female no age-limit is prescribed. He or she must have been a Muslim before the first day of March 1947. After the first day of March he or she must have been separated from the family and at the time of recovery he or she must be living in another family or with another individual. Now, let us forget the case of Pakistan. Supposing there is a girl who was a Muslim before the first of March 1947. Immediately after the 1st of March, 1947, she marries. Now she is separated from her family. She goes and begins to live in her father-in-law's family. Now, according to this definition

such a girl will be deemed to be an abducted person and any police officer who is authorised under this law to take possession of her and to put her in the camp will be perfectly justified in doing so.

Now I would request the hon. Minister to examine the whole of this definition from that point of view but if there is any difficulty, let us hold it over and frame it in such a manner that all this type of confusion may not arise.

Shri Mahavir Tyagi: I am opposed to the views expressed by my friend Mr. Ajit Prasad Jain. A married girl's family is the family of her husband and if a family is not to include a wife I think many of us will go family-less. I submit that if she goes to her father-in-law's house, that house becomes her family. Family means wife and husband living together.

Sardar Suchet Singh (Patiala and East Punjab States Union): In this definition of abducted persons, supposing there is an unmarried Muslim girl and a boy under 16 whose parents are living in this country, supposing such a boy is in the employment of a non-Muslim and secondly supposing there is a married Muslim girl whose husband is living in this country and if such a girl sought employment in a non-Muslim family in this country, she would, according to the present definition, come under category of abducted person particularly when clause 7(2) says that she should be restored either to her relatives or sent to Pakistan.

The Honourable Shri N. Gopalaswami Ayyangar: All these criticisms proceed upon the footing that people engaged on this work are likely to abuse their power. If you take the whole of the Criminal Procedure Code and the powers that have been conferred upon the various officers for dealing with offenders and so forth, it is quite possible that almost everyone of them could be abused to net any innocent person but the point for us to consider is, we have to deal with a case where there have been mass separations or abductions of this description and we have to take powers for the purpose of rescuing people who have been victims of mass abductions. It is possible that as the last speaker pointed out, a person who is a Muslim girl is only doing domestic service in a Sikh or Hindu family.

Shri C. Subramaniam: Under law there is no separation.

The Honourable Shri N. Gopalaswami Ayyangar: That is one way of looking at it. But some lawyer can interpret the language literally, if he is so minded, and argue that, when the husband is in Agra and the girl is in a Sikh family, there is some physical separation. All these arguments are quite possible but I may tell hon. Members that in the application and implementation of this law we have got rules and instructions issued which give very detailed instructions to our workers to avoid cases of this kind, and they will be avoided. I think the provision which the hon. Mr. Tyagi did want to put in was a very necessary amendment viz., as there have been cases where abductors themselves have been Muslims, we had to cover those cases and that is why I accepted that amendment. I hope the House will accept that.

Shri Ajit Prasad Jain: My difficulty is this. Are you laying down a correct definition? Why do you want to supplement it by departmental instructions? Now that we are framing the law, it is our duty to lay down a correct definition. To my mind this definition is not a correct definition and it does not fully translate the intention which you have in mind.

The Honourable Shri N. Gopalaswami Ayyangar: I don't think I need say anything more. I think the practicalities of the case are met by this definition

Sardar Suchet Singh: If you say "who have migrated to Pakistan" it will be alright.

Mr. Deputy-Speaker: Is it intended that if a Muslim girl is abducted inside Delhi by one person who is another resident of Delhi, it is part of the agreement with Pakistan that this girl should be restored to her parents in Delhi or does it apply only to cases where the family is in Pakistan? Cannot the ordinary law take care itself so far as those persons within India are concerned?

Pandit Thakur Das Bhargava (East Punjab: General): Clause 7(2) will throw light on this subject. It says "restore such person to his or her relatives or convey such person out of India".

The Honourable Shri N. Gopalaswami Ayyangar: The only thing I can say is I did not want to say that at an earlier stage but I do wish to bring it to the notice of the House that this argument about Muslim girls being employed as domestic servants has been used as cover for abduction of girls. They are in the family but they are put out as mere domestic servants. A number of them had to be recovered for the purpose of being restored to original relatives. We cannot forget circumstances of that nature also. I think what we really require is a law which in agreement between the two Dominions we shall enforce for a limited period for the purpose of making these recoveries on a large scale.

Sardar Suchet Singh: There are cases of the parents of unmarried girls living here.

Mr. Deputy-Speaker: The hon. Minister is fully aware of these points. His opinion is that all these cases cannot be covered and any loopholes can be corrected by departmental instructions. Of course there must be some latitude though not enormous latitude on this matter. I will now put this amendment to vote.

Sardar Bhopinder Singh Man: (East Punjab: Sikh): Certain incongruities are being removed and I would also like to bring to the notice one peculiar case which is not covered by this. There is a case of certain Hindu girls abducted by Muslims and who are settled in India. The case will be quite apparent if I bring to his notice the cases of certain Kashmiris' positions when the raiders came to Kashmir and the local population got up and abducted many Hindu girls in Rajauri.

Mr. Deputy-Speaker: That does not form part of the agreement with Pakistan. It is unnecessary. Our Government will take care of those cases under the ordinary law of the land if it comes to their notice.

Sardar Bhopinder Singh Man: A very expeditious law is being enacted in respect of Muslim girls whereas Hindu girls who are here and are still retained by Muslims, for them we have to apply ordinary law?

Mr. Deputy-Speaker: The ordinary law of the land is sufficient and Government can invoke that or any citizen can do that. I am not prepared to enlarge the scope of the Bill. It is limited to the agreement entered into with Pakistan. The internal administration here is not a subject-matter of agreement with Pakistan. I shall now put this amendment to vote.

Shri Mahavir Tyagi: Will there be no amendment? Are you taking vote separately?

Mr. Deputy-Speaker: I am disposing of amendment by amendment.

Shri Mahavir Tyagi: How will you allow general discussion on this clause?

Mr. Deputy-Speaker: I have told the hon. Members repeatedly that after all the amendments are over there will be a general discussion on the clause. Normally, if any amendments are accepted, the clause as amended by that amendment would stand part of the Bill. I am afraid the hon. Member has forgotten the procedure.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I move:

"That in part (a) of sub-clause (1) of clause 2 of the Bill, for the words 'a non-Muslim', the words 'any other' be substituted."

Mr. Deputy-Speaker: The question is:

"That in part (a) of sub-clause (1) of clause 2 of the Bill, for the words 'a non-Muslim', the words 'any other' be substituted."

The motion was adopted.

Sardar Hukam Singh: Sir, I beg to move:

"That in part (a) of sub-clause (1) of clause 2 of the Bill, the following be omitted: 'and in the latter case includes a child born to any such female after the said date;'."

Mr. Deputy-Speaker: The hon. Member has already spoken about this matter during the general discussion.

Sardar Hukam Singh: Sir, I do admit that it has been sufficiently discussed during the general discussion. But, with your permission, I would like to bring out one or two points—I will not dilate upon it much.

We have been assured, Sir, by the hon. the Mover of the Bill that he would persuade the Pakistan Government to fall in line with this clause. But I am doubtful whether Pakistan would agree to it, as they have not responded to various other protests of ours.

Then again, Sir, the hon. the Mover said that the mother is the person who is most concerned with the child who is born here. I beg to differ from him there as well. I feel that there may be cases where the mother might not be willing to take that child to Pakistan and the father might be very much anxious to keep that boy or girl here. Even those cases are not excluded here. I would, therefore, humbly request the hon. the Mover to give careful consideration to such cases.

It was said during the course of the debate that these children would be illegitimate. Well, if they will be illegitimate on this side, they will be illegitimate on the other side too and I think it would be a matter of shame for the girl to take the child to that place. Even if such children are taken by the girls, they would be murdered or done away with. Therefore, even considering the matter from a humanitarian point of view, it would be better to keep such boys and girls here.

My next objection is about the fixation of the date, that is the 1st day of March 1947. I have already moved an amendment on this matter. I want to say again that if a child is born on or about the 1st of March 1947, it means that it was conceived somewhere about July 1946 when the Cabinet Mission was here and the partition of India was only under contemplation. My contention is such cases should be excluded from the purview of this clause.

When we see that there is no such corresponding provision even in the Ordinance that Pakistan has promulgated, there is no reason why we should have such a provision. If and when the hon. Mover succeeds in persuading Pakistan to have such a provision, we can have a similar clause.

[Sardar Hukam Singh]

I do not mean to say that all these children should be kept here, but I feel that some discretion should be left to the authorities. There may be cases where it would not be just to send them away. Therefore it should be left to the discretion of the authorities to decide which children should be retained here and which children should be sent away.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I have already explained the position with regard to these children. The inclusion of children in the definition of an abducted person only enables the recovery of the child along with its mother in the first instance. Then the recovered persons are taken to a camp and a definite decision is taken by the Tribunal as to what should be done with the child, whether the child should go with the mother to Pakistan or whether it should be sent back to the home from which it was recovered or kept in a home for unwanted children in the country. We have had cases of all these descriptions and the mere inclusion of children in the definition of abducted persons does not mean that those children are necessarily sent away to the other Dominion. If the hon. Member who has moved this amendment will keep this point in mind, I am sure he will not press it. We propose to exercise this discretion in the best interests of the children themselves. The mere inclusion in the definition, does not really require that we should send them elsewhere.

Sardar Hukam Singh: The discretion can be exercised even if that definition is not there.

The Honourable Shri N. Gopalaswami Ayyangar: The point is we cannot recover the children from where they are. In some cases inability to recover the child, impedes the recovery of the mother. Therefore it is that we have got to take the child along with the mother.

Pandit Thakur Das Bhargava: In clause 6 there is no mention of the child at all and the discretion given to the Tribunal will be effective if, as in the definition, child is included in the category of abducted person. Now the Tribunal is competent to decide about the future fate of the child. If child is excluded from the definition of abducted persons such jurisdiction shall cease.

The Honourable Shri N. Gopalaswami Ayyangar: If the hon. Member will read clause 6 as it will be amended by me, he will probably accept the position that it will be provided for.

Mr. Deputy-Speaker: May I know whether the hon. Member still wishes to press his amendment?

Sardar Hukam Singh: I would, Sir.

Mr. Deputy-Speaker: The question is:

"That in part (a) of sub-clause (1) of clause 2 of the Bill, the following be omitted:

"and in the latter case includes a child born to any such female after the said date."

The motion was negatived.

Sit. Rohini Kumar Chaudhuri: Sir, I beg to move:

"That in part (a) of sub-clause (1) of clause 2 of the Bill for the words 'a child', occurring in the last time the words 'an illegitimate child' be substituted."

The object of this amendment, Sir, is that a mother has always the custody of an illegitimate child and the father has no right whatsoever on that child.

Therefore I want to introduce the words "illegitimate child". If you want to take away a child from the control of the father, you can do that only so far as an illegitimate child is concerned. So far as legitimate children are concerned, the father has absolute control. You have not introduced any legislation whereby the marriage of a non-Muslim with a Muslim girl who comes under the definition of an abducted person can be nullified. You have not introduced any legislation to declare that marriage null and void. I understand that there is an agreement between the two Governments by which they agree not to recognise such marriages. They may not recognise such marriages, but society will recognise. If there is any sanctity in marriage law, the courts will recognise these marriages.

Shri Krishna Chandra Sharma (U.P.: General): Is there such a thing as marriage law?

Sjt. Rohini Kumar Chaudhuri: According to the law, it will be a valid marriage, if the parties agree. I do not know what is the experience of my hon. friend, the interruptor, whether a marriage can be torn as under, even though the husband and wife may be living together, whether such a marriage can be nullified.

Shri Krishna Chandra Sharma: A man and a woman by living together do not become a married couple.

Sardar Bhopinder Singh Man: Certainly it is so in the Punjab. Among the Jats, if a man and a woman live together as husband and wife, it is considered to be marriage apart from any ceremony performed.

Mr. Deputy-Speaker: Let there be no cross-argument.

Sjt. Rohini Kumar Chaudhuri: In some parts of India, where a man and a woman live together, it becomes a marriage. I am not now dealing with that kind of marriage at all. I am dealing with a regular valid marriage which cannot be nullified by anybody, by any third person, and if a child is born out that wedlock, can that child be taken away from the control of the father? So long as you have not repealed the provisions of the Guardians and Wards Act which I hope my hon. friend, the Minister, remembers, the father is always entitled to make an application to a judge to allow him to keep the child in his custody. How is this law going to take effect? The hon. Minister is an astute lawyer himself, and I think he will certainly agree with me that under the Guardians and Wards Act, any taking away of such a child from the custody of the father can be set aside by a Judge. If your intention is that you are going to turn out all Muslim women from this country, no matter whether there is any law or not, and also to turn out all children born of a Muslim mother and a non-Muslim father, I can understand that and you accept this law. But my objection is that so long as the Guardians and Wards Act is not repealed, so long as there is no law by which the marriage between a Muslim and a non-Muslim can be declared invalid, this clause should be changed in the manner I have proposed.

Shri C. Subramaniam: May I point out the absurdity that will ensue if the hon. member's amendment is accepted. Suppose an abducted person was a married woman and on the date of abduction, she was already pregnant and was abducted after that. The child born to her in this case will be a legitimate child born to her lawful husband. If we accept the amendment of my hon. friend, such a child cannot be removed at all because it would be a legitimate child, even though born after the abduction.

Mr. Deputy-Speaker: It has been sufficiently discussed now.

The Honourable Shri N. Gopalaswami Ayyangar: I do not accept the amendment.

Mr. Deputy-Speaker: The question is:

"That in part (a) of sub-clause (1) of clause 2 of the Bill, for the words 'a child', occurring in the last line, the words 'an illegitimate child' be substituted."

The motion was negatived.

Shri Mahavir Tyagi: Sir, I am very glad that the hon. Minister has accepted my amendment and thereby made this clause look better in meaning as well as in effect. The previous position was that only abducted persons living in non-Muslim families were covered. Abducted women residing with Muslim families were left out of consideration. That was a very invidious distinction and that has been removed. I still feel, Sir, that generally speaking this is a Bill for the rescue of Muslim abducted women alone. That is the difficulty. In fact in a secular State, should not we do away with the words "Muslim" and "Hindu"? All abducted women and children, wherever they are living, we should rescue.

Mr. Deputy-Speaker: There is the ordinary law of the land. This is for an exceptional circumstance arising out of partition.

Shri Mahavir Tyagi: Even these cases can be covered by the ordinary law of the land.

Pandit Thakur Das Bhargava: There is no law in India at least whereby a person who is living in a family while being separated from his original family can as such only be recovered.

Shri Mahavir Tyagi: These cases are also covered by the ordinary law of the land. This law has been made not because Pakistan thrust it on us, but because of our sweet-will. We wish that the abducted women who are so many in number must be rescued and they must be sent to their proper places. That is the real spirit of this law, and therefore, we are enacting it. Sir, I would have much preferred if we had enacted this law without making any invidious distinction of religion because these abducted women are the culprits of the disturbances that had occurred and in these I know for a fact that Hindu women have been abducted as for instance in Rajaori as mentioned by my hon. friend in the other bench.

Mr. Deputy-Speaker: Does the hon. Member mean "victims" or "culprits"?

Shri Mahavir Tyagi: I am sorry it is "victims". Culprits were men both Muslims and Hindus. They are all culprits who had abducted women. The Muslims are also culprits. There are a number of abducted women, who were Hindu, in possession of Muslims in Rajaori, Kashmir. There are, say 2,000 or so, I cannot vouch for the exact figures. But the fact is that Hindu women had been abducted during the Kashmir trouble, and now if the rescue of these women is left to the ordinary law of the land, I think it is a very invidious distinction, Sir. The Hindu women in Kashmir have been victims of the disturbance in Kashmir and they are said to be still in possession of Muslims of Rajaori—that part of Rajaori which is in our own possession. In the case of Muslim abducted women this Act does not deal only with the cases of these women whose parents or families are now in Pakistan, but it deals also with such Muslim women who have been abducted and their families are residing in India. The cases of the latter category could as well be

covered by the ordinary law of the land. But, we have made an exception in their case. We thought that with the help of the ordinary law of the land, it will not be very easy to bring all those abducted persons from these stranger families and deliver them to their proper families. Therefore, we have included in this Bill the work of rescuing such Muslim women also whose parents or families are living in India. How is it that similar cases of Hindu women who have been abducted on account of the disturbances in India and are still residing with families other than their own in India are not covered? Where is the law which deals with their fate? Are they to be treated by the ordinary law of the land? If so, why? That is my complaint, Sir.

About thousands of abducted women are in Rajaori, a part of which is in our hands and the other part is in the hands of the Pakistan people. And there are among those abducted persons are both Hindu and Muslim women. Even the Muslims in Rajaori could not be rescued if my amendment were not accepted.

Shri Jaspal Roy Kapoor (U.P.: General): This Act will not be applicable to Kashmir.

Shri Mahavir Tyagi: I am afraid if it does not apply to Kashmir, then it is really bad enough. I am sorry if that is so. Therefore on that point I really seriously suggest that either there should be another act of similar nature which might control Kashmir or if the Kashmir Hindu girls are not rescued, I tell you, this Bill will not be welcomed in India. They are also abducted girls, their families are living here and their cases we have left to the ordinary law of the land to control. This is invidious, Sir. I would have, preferred if the hon. Minister really said that any person whether Hindu or Muslim who had been abducted in connection with the disturbances either here or in Kashmir will be rescued and sent to his proper family, to which he or she belongs, that would have been a better thing. The good work that has been carried on under the captaincy of Shrimati Mridula Sarabhai is going on undisturbed and the insertion of the word 'Muslim' here or the exclusion of the word 'Hindu' does not add more power or force which it enjoyed, nor withdraws any power from their hands. So I think just a change of word would make the thing look better and it will be more popular and secular. I therefore submit, Sir, that the hon. Minister might further think if he can so change this clause as to enable the Government to operate in such cases where Hindu women have been abducted.

Pandit Thakur Das Bhargava: Sir, I am sorry to think that Mr. Tyagi has misunderstood the whole scope of this Bill. The Bill is to provide, in pursuance of an agreement with Pakistan, for the recovery and restoration of abducted persons. Clearly I can quite see that the Hindu girls will not come within clause 2. At the same time, Sir, I do not think how possibly this Bill could refer to Kashmir. Kashmir has acceded to India and if we want to have any provision like this to meet the cases which Sardar Bhopinder Singh Man has adverted to, then it should be provided by way of a separate Bill, if necessary. In this Bill, we cannot think of such a contingency.

Mr. Deputy-Speaker: It does not extend even to the whole of India; it extends only to particular states mentioned here.

Pandit Thakur Das Bhargava: Yes, Sir. You will be pleased to see in the preamble the following: "And whereas the Governors of the United Provinces and East Punjab and the Rajpramukhs of Patiala and the East Punjab. . . " and this is limited again in sub-clause (2) of clause 1. This is quite right.

[Pandit Thakur Das Bhargava]

I have to make another observation. In my humble opinion this word "abducted person" whose definition is given is a misnomer. As a matter of fact, as I submitted before, an abducted person according to ordinary connotation of the word as well as the plain meaning of the section 362 of the Indian Penal Code means a person who is compelled by force or induced by deceitful means to go from any place. In respect of persons who are separated this word "abducted person" is not appropriate. I know of thousands of good Hindus who gave protection to such Muslim girls. I know in Pakistan also there are good Mohammadans who gave protection to innocent Hindus. Muslims from Pakistan sent letters to the Hindus here and similarly Hindus in India sent letters to Muslims in Pakistan informing each other of the whereabouts of these separated persons. They can by no manner be called abductors if they give protection. The proper word should have been "separated persons" or some other name. If any person wants to make over some child or some woman to the State, he is by use of this word likely to think that he is really guilty of a crime, though there is no legal offence committed. Similarly the person given protection may think that she is an abducted woman whereas there was really no abduction but only protection given. Really speaking they are separated women and though the two Governments have agreed that in regard to such persons as are described as abducted persons, such persons may be recovered and restored, they should not be called abducted persons. It is wrong to call them abducted persons; they are only separated persons.

In regard to the other matter referred to by my hon. friend Sardar Bhopinder Singh Man, if it is true that there are such persons like that, I would also add my humble voice to that of Sardar Bhopinder Singh Man and my hon. friend Shri Mahavir Tyagi that the Government should at once see that in the Acceding States such things are not allowed to continue or to happen.

Shri Jaspat Roy Kapoor: Sir, I am afraid not only my friend Shri Mahavir Tyagi is labouring under a misapprehension, but even my hon. friend Pandit Thakur Das Bhargava is also labouring under a misapprehension, though he made an attempt to remove the misapprehension of Mr. Tyagi.

Sjt. Rohini Kumar Chaudhuri: Only my hon. friend has no labour trouble.

Shri Jaspat Roy Kapoor: That wonderful phenomenon can be exhibited only by my hon. friend Shri Rohini Kumar Chaudhuri. Reference has been made in the course of the debate to Hindu women who have been abducted in Kashmir and who may well be within the State. While my hon. friend Mr. Tyagi would have welcomed that this Bill should have been extended to Kashmir also, and should have brought within its purview cases of Hindu abducted women there also, my hon. friend Pandit Thakur Das Bhargava suggests that there should be a separate Bill on the subject. I am afraid none of these two courses are possible.

An Honourable Member: Why?

Shri Jaspat Roy Kapoor: My hon. friend to my right asks why. I shall answer that question. I think it is well that hon. Members of this House realise on this occasion, if they have not realised so far, that our jurisdiction, our power to make laws with regard to the Kashmir State, is of a very limited nature, unfortunate though it may be.

Shri Ajit Prasad Jain: It can be extended.

Shri Jaspat Roy Kapoor: That is an entirely different thing. So far as Kashmir is concerned, it has acceded only, much to our disappointment, in regard to three matters communications, external affairs and defence.

Pandit Thakur Das Bhargava: We can enter into a similar agreement or acquire powers if necessary.

Shri Jaspat Roy Kapoor: With regard to this matter they have not acceded and however much it is our wish, it is not within our power to make any legislation applicable to Kashmir. It is very unfortunate and very disappointing; but we are in a very helpless position so far as abducted women in Kashmir are concerned. I only hope and wish that we can make an earnest request in this behalf to the hon. the Minister.....

Shri Mahavir Tyagi: May I just enquire from my hon. friend.....

Mr. Naziruddin Ahmad: On a point of order, Sir, any hon. Member may ask for a personal explanation. But, there is no means permitted by law by which he can physically touch a member to draw his attention.

Shri Jaspat Roy Kapoor: I can assure my hon. friend Mr. Naziruddin Ahmad that it was a very gentle and a welcome touch to me.

Shri Mahavir Tyagi: I want to enquire from my hon. friend Mr. Kapoor: when defence is in our hands and there is a war going on and our armies are advancing—it is unfortunate that they could not proceed further, for, there came the "cease fire" order just when a few more days would have enabled us to reconquer Rajaori—could we not under the very authority of defence send persons to their homes and protect them? If we cannot do that under the civil law, we can do that under the military law, because military is in full possession of Rajaori and they are entitled to effect law and order in that area.

Mr. Deputy-Speaker: May I ask hon. Members not to dilate upon this matter? It is all unnecessary and not relevant as to what the military authorities can do and what the terms of the agreement are. They are far beyond the scope of the Bill.

Shri Jaspat Roy Kapoor: I have hardly anything further to add. I only hope that the interpretation and view of my hon. friend Mr. Tyagi were accepted as correct. What I was submitting was that we should appeal to the hon. Minister sponsoring the Bill to make a specific effort in this direction to persuade the Kashmir Government to make some special law on the subject so that the relief that we are going to give to the Muslim abducted women in the various provinces to which this Bill will be applicable, may also be given to the abducted Hindu or Muslim women, whatever their religion may be in the State of Kashmir also.

Sjt. Rohini Kumar Chaudhuri: Sir, the hon. Minister did not care to reply to points raised by me and I am afraid he is suffering from a mild form of obstinacy. My submission to the hon. Minister is.....

Mr. Deputy-Speaker: I do not want that there should be a repetition of the whole thing. If an hon. Member moves an amendment, he sets out certain arguments in favour of that. It is open to the hon. Minister to refute some and say some other arguments are not necessary to be refuted. Once again, when I put the general clause to the vote, to start once again with regard to some amendment which has been defeated, I do not think it is right to take the time of the House.

Shri Brajeshwar Prasad: On a point of order, Sir, is it parliamentary to use the expression, "suffering from an attack of obstinacy"?

Sjt. Rohini Kumar Chaudhuri: A mild form of obstinacy.

Shri Brajeshwar Prasad: Is "obstinacy" parliamentary?

Mr. Naziruddin Ahmad: It is a humorous and an affectionate expression.

Mr. Deputy-Speaker: Order, order.

Sjt. Rohini Kumar Chaudhuri: I want to put a question to the hon. Minister which he may be pleased to reply. It is this. Does this provision bar the jurisdiction of the civil court to entertain or decree a suit for restitution of conjugal rights or any suit under the Guardian and Wards Act for the appointment of guardian of these children which are referred to in this clause? Shall I repeat?

The Honourable Shri N. Gopalaswami Ayyangar: I can assure my hon. friend that I have listened to his remarks quite well and I may assure him also that I have not forgotten all my law. I would only say this that, far from my being guilty of mild obstinacy, I am afraid the hon. Member is guilty of something more than mild obstinacy.

An Honourable Member: He is wild.

The Honourable Shri N. Gopalaswami Ayyangar: With regard to the question of the jurisdiction of the civil court, there is a special clause in this Bill which indicates what particular matters would be excluded from the jurisdiction of the civil court. Beyond that, if the hon. Member can go and persuade the civil court to assume a jurisdiction which is not barred, we can do nothing in the matter; we will try to meet that litigation as best as we can.

As regards the point that was raised by my hon. friend Mr. Tyagi, there are only two answers to it. The first is, as pointed out by my hon. friend Pandit Thakur Das Bhargava, this is legislation in implementation of an agreement with Pakistan. We have got to implement that agreement substantially in the terms in which we have entered into that agreement. In the second place, there has been no amendment suggested in regard to the widening of the Bill, even as he wants it to be done. He wanted its widening in a particular part of the clause and I have accepted it. In regard to the other aspect of widening which he has suggested, unfortunately, he himself omitted to give notice of an amendment. But, I may tell him at once that, even if he had given notice of an amendment, I would not have accepted it because it would commit a breach of the terms of the agreement. We cannot put into this legislation something to which we have not got the other party's consent. I think, Sir, I have nothing more to say.

Mr. Deputy-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.

Sjt. Rohini Kumar Chaudhuri: Sir, I move:

"That after sub-clause (1) of clause 3 of the Bill, the following new sub-clause (2) be inserted and the existing sub-clause (2) be renumbered accordingly:

"(2) The Principal Government Magistrate or officers not below the rank of a Magistrate of First Class as officers in charge of camps established under the preceding clause."

As far as I can see this Bill does not lay down the qualifications of a camp officer inasmuch as this camp officer will have the power to try and punish the abducted persons kept under his control. In my opinion he should be an officer not below the rank of a first class magistrate, for such an officer will have experience of trial and the kind of punishment to be meted out on a particular kind of offence. There is no mention of this in this Bill because I suppose the Government want to provide for all these in the regulations to be framed hereafter. I want that this should be stated here clearly. If it is left to regulation we will have no opportunity to discuss it before it is adopted. This is a very vital matter and we want to make it clear that a responsible officer ought to be placed in charge of the camp. The indications are that the author of the Bill does not care very much what class of officers should be in charge of a particular duty. They have already prescribed that a man of the rank of an assistant sub-inspector, the lowest officer over the constable, shall be responsible for keeping abducted women in custody, a thing which no other law would contemplate. I want it to be made clear what sort of a camp officer there should be so that we can express our opinion as to whether we approve of it or not. In my humble opinion that officer should not be a person holding a position less than that of a first class magistrate.

Mr. Deputy-Speaker: There does not seem to be any judicial function given to the officer. He is only an administrative officer. He has no right to decide whether he ought to receive an abducted person or not. The matter has to be decided by the tribunal.

Sjt. Rohini Kumar Chaudhuri: The words "trial" and "punishment" are used in clause 5. What sort of trial it will be is not laid down.

The Honourable Shri N. Gopalaswami Ayyangar: These camps are in charge of social workers and practically all of them are women. I do not think it is consistent with the kind of discipline that we wish to maintain in this kind of camp, which is primarily intended for the purpose of putting the inmates into contact with such relatives as may have to come and see them, that we should have a magistrate or any person of that kind of authority in charge of the camp.

As regards the general manner in which a camp is conducted, whether it is conducted on proper lines and so forth, the deputy commissioner of the district has a kind of overall supervisory jurisdiction but he cannot interfere with the internal discipline of the camp. The trial that is mentioned is only in regard to cases of indiscipline under the regulations that may be framed may occur in the camp. As a matter of fact I have not heard of any case of trial or punishment so far.

Sjt. Rohini Kumar Chaudhuri: Will you put a police or military officer in charge of this camp? You must mention clearly whom you are going to put in charge, otherwise it will be open to the Government to appoint anybody, a police officer or a *daroga* just as a *jamadar* is made responsible for the purpose of arresting.

The Honourable Shri N. Gopalaswami Ayyangar: Hon. Members will realise that Government have not so far misbehaved. Instead of thinking of such officers, to whom he takes objection, Government have so far appointed only women social workers to be in charge of the camps.

Shri H. V. Pataskar (Bombay: General): Is there any objection to mention here that these camps will be in charge of social workers, in which case there will be no objection. Why should it be so vague as it is here?

Mr. Deputy-Speaker: Social worker is such an indefinite expression. It will have to be defined here.

In this amendment it is said "Provincial Governments may appoint". The Provincial Governments are authorised to appoint first class magistrates but it is not obligatory. The Provincial Government may appoint a first class magistrate or even a judge. Does the hon. Member wish to press his amendment?

Sjt. Rohini Kumar Chaudhuri: Yes, Sir.

Mr. Deputy-Speaker: The question is:

"That after sub-clause (1) of clause 3 of the Bill, the following new sub-clause (2) be inserted and the existing sub-clause (2) be renumbered accordingly:

(2) The Provincial Government may appoint officers not below the rank of a Magistrate of First Class as officers in charge of camps established under the preceding clause."

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.

Mr. Naziruddin Ahmad: Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, for the words 'an Assistant sub-Inspector', the words 'a sub-Inspector' be substituted."

We are going to give police officers very wide powers. In case the police officer is merely of opinion that there may be found any abducted persons in any home we clothe him with absolute authority to enter the house to make a search and do a lot of other things. The officers who would be entitled to use these drastic powers have been described thus:

"any police officer, not below the rank of an Assistant Sub-Inspector or any other police officer specially authorised by the Provincial Government."

I believe that an Assistant Sub-Inspector of police is the lowest police officer in the East Punjab and the other places where the Bill will apply.

Sardar Hukam Singh: The head constable is there below him.

Mr. Naziruddin Ahmad: He is not an "officer".

Sardar Hukam Singh: He is.

Mr. Naziruddin Ahmad: I do not think there is any difference between the head constable and the Assistant Sub-Inspector. I have two reasons. First of all, an Assistant Sub-Inspector of police is the lowest grade of a police officer; he should not be below the rank of a Sub-Inspector of police. The second reason is that as we are going to give power by statute to these officers it is very necessary that we should empower only experienced and qualified officers to discharge this difficult and responsible duty. My amendment says that the duty should be entrusted to a Sub-Inspector of police or an officer who is superior in rank. In case the Government finds that an Assistant Sub-Inspector is individually competent and is able to properly discharge this duty, he can be empowered under this clause to exercise this power. That is provided for by the words "or any other police officer specially authorised". If an Assistant Sub-Inspector is personally a qualified and reliable

officer, he can easily be specially authorised by the Government. So that would not exclude any Assistant Sub-Inspector who is really a competent, reliable and a tactful officer. For this purpose he can be specially authorised. I therefore submit that this amendment should be accepted.

The Honourable Shri N. Gopalaswami Ayyangar: I have only one or two words to say. The whole idea of this is that generally speaking an officer in charge of a police station should have these powers. In certain Provinces we have got this grade of Assistant Sub-Inspector. But I believe in those Provinces there are Head Constables who occupy a lower rank, in the hierarchy of police officers, than Assistant Sub-Inspector. In certain cases where police stations are in charge of Head Constables, as they sometimes are, it may be necessary to empower them to exercise these powers. As a matter of fact it has not been found necessary to empower any such officers below the rank of Assistant Sub-Inspector. I think on general principles the officer in charge of a police station should have these powers and the clause should stand as it is.

Pandit Thakur Das Bhargava: May I inform the hon. Minister that in the Punjab it is the Sub-Inspectors who are in charge of police stations.

The Honourable Shri N. Gopalaswami Ayyangar: Yes, I know.

Mr. Naziruddin Ahmad: Sir, I find that there are other hon. Members who have given notice of this very amendment. Personally I would have been glad to withdraw my amendment but that will deprive the others of the opportunity of placing their amendments before the House.

Mr. Deputy-Speaker: I will now put the hon. Member's amendment to vote.

The question is:

"That in sub-clause (1) of clause 4 of the Bill, for the words 'an Assistant sub-Inspector', the words 'a sub-Inspector' be substituted."

The motion was negatived.

Mr. Deputy-Speaker: The next amendment is barred. In respect of the next amendment when the hon. Minister has expressed himself against the substitution of the words "a Sub-Inspector" for the words "an Assistant Sub-Inspector", is there any chance of his accepting the substitution of the words "an Inspector"?

Sardar Hukam Singh: Still I do want to say a few words about it.

The Honourable Shri K. Santhanam: If by implication the House has rejected the idea of raising the status—even to that of Sub-Inspector—how does this amendment arise?

Mr. Deputy-Speaker: That is what I said that the House has rejected the amendment to substitute even "sub-Inspector" and therefore there is no chance of its accepting this amendment. But technically I am not able to say whether it is barred or not.

Sardar Hukam Singh: Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, for the words 'Assistant sub-Inspector' the word 'Inspector' be substituted."

I also move:

"That in sub-clause (1) of clause 4 of the Bill, the words 'or any other police officer specially authorised by the Provincial Government in this behalf' be omitted."

[Sardar Hukam Singh]

Sir, there is a misapprehension in the minds of certain hon. Members about this matter. In East Punjab the Head Constable occupies a lower rank than the Assistant sub-Inspector. He is never put in charge of a police station. Ordinarily a Sub-Inspector is in charge of the police station. Normally an Assistant sub-Inspector is only a senior Head Constable. But because sometimes it is required that a senior officer might be put in charge of the police station, they were promoted to this office of Assistant sub-Inspector. So this man, namely, the Head Constable, is not lower than the Assistant sub-Inspector really. And he is not in charge of the police station.

Arguments have been advanced that if an Assistant sub-Inspector comes to know that there is an abducted girl in some house it would cause delay if he is required to report to a higher officer. I wonder how after one and a half years there is so much hurry and it is said that if an Assistant sub-Inspector comes to know that there is an abducted girl somewhere he cannot wait for a day or two to take orders from his higher officer. If we have not been able to trace a certain number of females up to now I do not think any harm would be caused if another day or two days pass after this Assistant sub-Inspector gets that information. I am afraid that only one side of the matter is being considered and this is being done to hurriedly take out these women. The other side, that it can cause havoc and mischief when it is abused and when it is left to officers who are only Constables, is not being considered. My submission therefore is that it is necessary that some senior police officer, more responsible, more experienced and more conscious of his duties should be put in charge of this work.

The Honourable Shri N. Gopalaswami Ayyangar: I have hardly anything to say. I have said all that I had to say.

Mr. Deputy-Speaker: The question is:

"That in sub-clause (1) of clause 4 of the Bill, for the words 'Assistant sub-Inspector' the word 'Inspector' be substituted."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That in sub-clause (1) of clause 4 of the Bill, the words 'or any other police officer specially authorised by the Provincial Government in this behalf' be omitted."

The motion was negatived.

Shri Mahavir Tyagi: Sir, I beg to move:

"That in sub-clause (1) of clause 4 of the Bill, after the word 'has' occurring in line 3 the words 'on receipt of a written report' be inserted."

The Honourable Shri N. Gopalaswami Ayyangar: May I interrupt my hon. friend at this stage, Sir? In this case also I have accepted the suggestion of my hon. friend. Only I have put it in different words. I have tabled an amendment:

"That in sub-clause (1) of clause 4 of the Bill, after the words 'he may', the following be inserted:

"after recording the reasons for his belief,"

Shri Mahavir Tyagi: Sir, I speak from my own personal experience. During the last disturbances when I had taken over the administration of my district in my own hands and was managing the law and order position of the district. The District Magistrate had kindly agreed to hand over to me and for four days I kept the district. I know how difficult it became for me

to send my police forces from one place to another. Sometimes alarming news came to me asking for police help and military help too. And I was sitting in the kotwali ordering the police to go here and there. When reports started coming I thought I had better enquire and verify the truth of the reports first. So I divided my town into five circles and appointed a number of Special Magistrates, which I created myself. The gazette notifications came later on. I asked these Special Magistrates to verify on spot and send me their reports as to whether the reports that had come were accurate or not. In most of the cases I found that the reports that came were highly exaggerated. A report would come that there was a great trouble, that the Mohalla was on fire and all that. During the days when I was the organiser of the Tyagi Police which was formed by the Provincial Government of U.P.—I had about 500 Congress volunteers enrolled into the police, they had taken constables' uniforms and we were deputed to help the maintenance of law and order in the Province. I found that the reports that came were always exaggerated. Informers would give such a colour to their reports that an officer would at once be inclined to believe it. This is generally the case with oral reports. But whenever I asked them to give it in writing they said they would not. So I submit that by asking a report to be given in writing you would really bring the report much nearer accuracy. I have therefore added the word "written". The police might take action. But let all this action not end in a wild goose chase.

Mr. Deputy-Speaker: You have not stated on receipt of report from whom?

Shri Mahavir Tyagi: Whosoever brings information must give it in writing to the police so that he may realise that giving wrong reports to the police is an offence. If a written report is asked for, everybody will be afraid of giving an exaggerated report. There must be a safeguard against wrong reports and against action being taken and houses of gentlemen searched on the basis of such oral reports. If, however, the hon. Minister feels that insistence on written reports would obstruct the free action of the police squad or the rescue squad, if he feels that they really cannot work with this little restriction I have proposed for putting them on their right track, if he thinks it is necessary that they depend even on oral reports, if he thinks so from his experience, I am prepared to reconsider the position. But let the hon. Minister give the House the benefit of his experience of this work for so long. The reports may at least be written so that a police officer may know that he has some written evidence in his possession and may be able to defend himself against a futile action because it becomes really very bad when the police officers or civil workers go to a place, enter the house, search it and don't find any abducted persons. That way they simply bring unpopularity on the whole Government policy. Therefore, to avoid these dangers you might just take written reports from the informers before taking action. My amendment is a very simple one, but if the hon. Minister has something to say which convinces me, I will change my mind.

The Honourable Shri N. Gopalaswami Ayyangar: I only wish to say that the amendment of which I have given notice goes much farther in the direction that my hon. friend wants to go than his own amendment. What I have suggested in the amendment is that the police officer who takes action must record the reasons for his belief. It is not merely that he should be enabled to take action as soon as he gets a written report. He may get a written report or he may get an oral report, but he has got to decide that he has good reasons to believe it and he has got to put down those reasons in writing so that really it is a much better safeguard in the direction intended by my hon. friend than his own amendment. I hope he will accept what I have suggested.

Shri Mahavir Tyagi: Sir, I am not inclined to press it in that case.

Mr. Deputy-Speaker: Therefore, I need not put it to the House. Then Mr. Naziruddin's amendment. It is a verbal amendment.

Mr. Naziruddin Ahmad: I don't wish to move it unless it is acceptable.

The Honourable Shri N. Gopalaswami Ayyangar: I don't think it is necessary. The clause as it stands is good enough. But the hon. Member is not moving it.

Mr. Naziruddin Ahmad: I am prepared to move it—I am only awaiting the pleasure of the hon. Minister.

The Honourable Shri N. Gopalaswami Ayyangar: Then I don't accept this particular amendment of his. Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, after the words 'he may', the following be inserted:

'after recording the reasons for his belief,'"

Mr. Deputy-Speaker: The question is:

"That in sub-clause (1) of clause 4 of the Bill, after the words 'he may', the following be inserted:

'after recording the reasons for his belief,'"

The motion was adopted.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

Shri H. V. Pataskar: Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, after the words 'is an abducted person and', the following be inserted:

'produce such person with the least possible delay, before the nearest magistrate of the first Class, who shall immediately proceed to examine the person so produced and who shall if satisfied grant a certificate that the person is *prima-facie* an abducted person and after obtaining such a certificate the police officer shall'

With the amendment the clause will read:

"(1) If any police officer, not below the rank of an Assistant Sub-Inspector or any other police officer specially authorized by the Provincial Government in this behalf, has reason to believe that an abducted person resides or is to be found in any place, he may, without warrant, enter and search the place and take into custody any person found therein who, in his opinion, is an abducted person, and produce such person with the least possible delay, before the nearest magistrate of the first Class, who shall immediately proceed to examine the person so produced and who shall if satisfied grant a certificate that the person is *prima-facie* an abducted person, and after obtaining such a certificate the police officer shall deliver or cause such person to be delivered to the custody of the officer in charge of the nearest camp with the least possible delay."

The only object of my amendment is that when an abducted person or rather the person called 'abducted' under the definition of this Act is taken into custody by a Police Officer then before being taken over to Camp I want that person to be produced before a Magistrate, not for any detailed enquiry or trial but in order that he may ascertain by examination of the person himself immediately whether it is really a *prima facie* case of abduction and if satisfied he might grant a certificate after which that person may be taken to the camp.

My argument is that this procedure does not in any way involve any judicial or other enquiry of a protracted nature because that, I understand, was the main objection and I have avoided that. It is a simple method of checking the extraordinary powers which we are giving to the Police in particular cases where something might be done which are not justified in the interest of the person concerned. We know when we were discussing the definition, it was felt that the definition was certainly very wide. It covers not only persons who are abducted in the sense of being persons who on account of coercion or fraud are detained but also persons who may not fall in that class. My friend Pandit Thakur Das Bhargava has expatiated on the subject to which I recall the attention of the hon. Minister in this connection. You are aware, Sir, that it was admitted that this definition is rather too wide and that technically many persons may come under the definition who should not be included in the definition and it was stated that it was not the intention of Government that such persons should be dealt with under this Act. If that be so, then I believe it is necessary that the extraordinary powers—which were going to be given not only to Sub-Inspectors of Police but to persons who are subordinate to them and who may be called Officers-in-Charge of Police Stations—are used properly. I don't want to put any hitch in the way of such Police Officers taking action without consulting Magistrates for I do realize the objection may be that as soon as that Officer gets information if he were to approach the Magistrate before taking action, then the abducted person may be removed in the meantime. Similarly it may be argued that after a person is taken into custody, if a regular enquiry were to be held, probably the proceedings will be protracted and the matter may remain hanging for long. The hon. the Mover of the Bill said when a question was asked that it would be open for anyone to take the matter to a Court which may arrive at a proper decision. But in my view this Bill is to meet extraordinary circumstances and we are trying to oust the jurisdiction of the Court. Therefore I don't want that to be reopened by an inquiry or trial because that might come in the way of the very object of this Bill.

The police officer, even though he may be a subordinate, should produce the person before a magistrate before he is taken to a camp from where probably he may be despatched to Pakistan without any further interference except that of the Government authority. It may be very difficult for such recovered person to approach Government. Therefore, to minimise the risk of a person being straightway despatched to Pakistan in this manner, I have suggested this check. I am not for a moment suggesting that the magistrate should hold any elaborate enquiry. All that he need do is to interrogate the person recovered and issue a certificate to the effect whether the person in question is a *bona fide* abducted person. While, therefore, we are arming the Police with such vast and unusual powers, and when we are defining an "abducted person" in a wide manner, it is very necessary that there should be a check like this. We know, Sir, that the subordinate ranks of our Police, for instance, are not manned by very responsible persons who can be expected to carry out the spirit of the legislation that we are putting on the Statute Book. As my hon. friend Shri Mahavir Tyagi said of his district in many cases their reports are highly exaggerated and such men may take hurried action, when such action is not warranted.

Now Sir, I anticipate one difficulty in regard to my amendment and I have been rather worried about it. Well, I have been closely listening to the debate in this House. I may be told that according to the terms of the agreement with Pakistan and India in regard to this matter, Pakistan may not agree to such a provision as I have proposed and it may come into conflict with the agreement. I do not know whether it will or will not. It may on the other

[Shri H. V. Pataskar]

hand be therefore argued that this is beyond the terms of the agreement as it exists today. But I for one am inclined to think that, our consideration of what Pakistan is going to do or is not going to do has in more ways than one clouded the whole issue. I entirely agree with hon. Members who have plainly said that it is the primary duty of ours to restore every abducted woman wrongfully detained in this country whether she is a Muslim or not. But to base it on the consideration that our ladies who have been forcibly detained there in Pakistan, would be restored to us as a result of this action is neither in keeping with the realities of the situation nor as a matter of principle of good conduct on our part.

Sir, as a matter of principle it has all along been our culture and tradition to respect women; that has all along been our history. If unfortunately, certain unhappy events have taken place, even as a result of the reaction to the horrors that took place in Pakistan at an earlier stage, we should not be guided by any considerations as to what Pakistan will or should do. We must do the right thing; we have to restore every single abducted woman if there be still any who has been wrongly detained in this country. Other considerations should not be allowed to vitiate our action. Whether Pakistan reciprocates or not is not our concern. We are, as I said the proud inheritors of the culture of Rama and so far as my part of the country is concerned, of Shivaji. We, Sir, in our part of the country follow the traditions of that great personage. There is a story connected with him which I may tell the House. In those days a beautiful daughter of a Muslim Subedar was brought to Shivaji—as a present. He refused to accept her saying: "If my mother had been as beautiful as this young lady, I would have been more handsome than what I am". Sir, that is the tradition of our people, that is the way in which we have been respecting the womanhood not only of our religion, but also of the other religions. There should, therefore, be no doubt that we have to restore every single woman wrongfully detained in this country. But it is wrong to base it on the condition or hope that corresponding action will be taken by the people of Pakistan.

Sardar Bhopinder Singh Man: As descendants of Rama we have to bring back every Sita that is alive.

Shri H. V. Pataskar: I am just coming to that point. What I was saying was that our action should not be vitiated by any such ulterior considerations.

So far as Pakistan is concerned, agreement or no agreement, I am convinced in my mind after hearing the speech of the hon. the Mover that they are not going to reciprocate. It was said that about two thousand Hindu women are in the possession of Pakistan Government servants. Apart from everything else cannot the Pakistan Government, if its intentions were *bona fide* and genuine at least see that these helpless ladies are restored to us? The very fact that not a single woman of this class has been restored shows that Pakistan is not serious about this matter. It does not require any elaborate machinery for the Pakistan Government to recover these 2,000 women who have been detained by their servants, if they had the least sense of honouring their pledged word. This itself is a clear indication to my mind that it is not possible to expect Pakistan to do the right thing provided we do it on our side. That is not the method by which Pakistan will ever restore our women.

I know the instance of a corrupt Muslim official who during the years 1941 or 1942 was in responsible charge of a district occupied by backward people called the Phils. After partition he opted for Pakistan. There were so many charges against him. But unfortunately our Government could not do anything. I understand that in Pakistan he has got accelerated promotion and is now a

high official. There are so many instances of this kind. I do not, therefore, have the slightest hope that Pakistan will ever restore any of our women.

Shri Lakshminarayan Sahu: What about the 6,000 women who were restored by Pakistan.

Shri H. V. Pataskar: That was because the Military Evacuation Organisation was functioning then. Military force is the only language that Pakistan can understand. I would like to tell my hon. friends that a very large number of these women were restored prior to the agreement and not in terms of any agreement. They were restored because of the Military Evacuation Organisation. That is a clear indication of the *malā fides* of Pakistan.

I have absolutely no doubt that this legislation will not help us to bring back any of our sisters or mothers. I understand that many of the women who had been abducted not only from Rajaori but from other places in West Punjab also were sold in foreign countries. I, for one, have no hope that any of them could ever be returned to us.

I will come now to my amendment. My amendment is very simple. Whether the passing of this legislation or any of its provisions or the entering into an agreement with Pakistan brings about the desired result or not from Pakistan, I think we will have to have this legislation from the point of view that we would have to do our duty and that rightly. Our tradition demands, our culture demands that all the unfortunate women who have been reduced to this condition whether as a result of passion, as a result of reaction to what happened in Pakistan, should be rescued. I have tabled my amendment only for the purpose of seeing that the police officers on whom we are conferring such wide powers do not misuse those powers. It is dangerous that a police officer should be authorised to take a woman from her husband or guardian and take her directly to a camp which may be under the charge of Pakistani people. If I have understood the position correctly,—of course I am subject to correction—the arrangement seems to be that camps in India will be managed by Pakistanis and those in Pakistan will be managed by Indians. So such enormous powers in the hands of unscrupulous Police Officers may mean the spitting away to Pakistan of many unfortunate women without any remedy, without any help. I have therefore moved this amendment that before any person is sent to a camp, she should be produced before the nearest First Class Magistrate who shall immediately proceed to examine the person so produced and who shall, if satisfied, grant a certificate that the person is *prima facie* an abducted person. We should take care to see that these unfortunate women are not taken to Pakistan against their wishes. I know, Sir, that this is to be done only with her consent, but there may be circumstances in which she may not be able to express her consent freely. It is to safeguard this position, I suggest that she should be taken before a First Class Magistrate who will immediately examine her and find out whether the person is *prima facie* an abducted person.

Mr. Deputy-Speaker: Amendment moved:

"That in sub-clause (1) of clause 4 of the Bill, after the words 'is an abducted person' and the following be inserted:

"produce such person with the least possible delay, before the nearest Magistrate of the first class, who shall immediately proceed to examine the person so produced and who shall, if satisfied, grant a certificate that the person is *prima facie* an abducted person and after obtaining such a certificate the police officer shall."

Sardar Hukam Singh: My amendment is similar to the amendment that has just been moved. I want that she should be produced by the officer in charge of the camp before a First Class Magistrate. My suggestion is that if I am allowed to move my amendment now, the hon. Minister may be saved the difficulty of answering it twice.

Mr. Deputy-Speaker: There is an amendment standing in the name of Sardar Hukam Singh. He says that he may be allowed to move that amendment now and to speak and the hon. Minister may reply to both the amendments later on, in which case we shall have the other amendment also by Mr. Naziruddin Ahmad: "least practicable delay" for the words "least possible delay".

Mr. Naziruddin Ahmad: I will leave it to the hon. Minister but I shall require to explain it.

The Honourable Shri N. Gopalaswami Ayyangar: I only wish to point out to my hon. friend that, if I accept his amendment, he will be making a concession to me which other hon. Members may not like to make. "Least possible delay" ties my hands more tightly than "least practicable delay". Personally I would like to have it, but other hon. Members may not like it.

Mr. Naziruddin Ahmad: I had better move my amendment, Sir.

Mr. Deputy-Speaker: The hon. Minister himself does not want to be provided to such an extent.

Mr. Naziruddin Ahmad: Sir, I move:

"That in sub-clause (1) of clause 4 of the Bill, for the words 'least possible delay' the words 'least practicable delay' be substituted."

I am moving this only, out of practical considerations. If we say, "least possible delay", it means an absolute limit of logical possibility. "Least possible delay" means a delay which is conceivably possible or even mathematically possible. So, when a Police Officer has in his custody an abducted woman, even if he is impelled to answer calls of nature, the text as it is, requires that he must give up answering such calls and run at once with his charge without any possible delay. "Least practicable delay" is actually "least possible delay" modified by practical consideration. It means that there may be any practicable delay on practical considerations.

Shri Mahavir Tyagi: Delay cannot be practised.

Mr. Naziruddin Ahmad: "Least practicable delay" is a recognised expression. I do not think this will in any way unduly strengthen the hands of the police.

Sardar Hukam Singh: Sir, I move:

"That after sub-clause (2) of clause 4 of the Bill, the following new sub-clause be added:

"(3) The officer in charge of the Camp shall, with the least possible delay, cause the person, delivered to his custody, to be produced before a magistrate of the first class, who shall after summary enquiry, satisfy himself whether the person is really an abducted person, and may, in his discretion after considering all the circumstances, either recommit the person to the custody of the officer who produced him or discharge him forthwith."

Sir, this appears to be similar to the one which has already been moved by my hon. friend, Mr. Pataskar. He says that as soon as a police officer gets an abducted person in his possession, he should without any possible delay produce her before a first class magistrate. My amendment differs from that in this respect that, when the police officer gets that person in his custody, he should hand her over to the Camp. Then that officer should produce that person before a first class magistrate. I agree entirely with the object that my hon. friend has and also the grounds he has given. The particular suggestion that I want to make here is that, when we have given these wide powers to police officers—Asstt. Sub-Inspectors or any other officer that might be authorised in this behalf by the provincial government—he may be of lower rank than an

Asstt. Sub-Inspector, we leave this question whether a person is an abducted person or not to the decision of a Tribunal which we thought would be a sort of judicial authority, but we are told that this Tribunal would consist of S.P.s. of the two Dominions. Therefore it becomes all the more necessary that at some stage a judicial officer should have a chance of ascertaining whether it is a *bona fide* case of abduction or not.

[At this stage, Mr. Deputy-Speaker vacated the Chair, which was then occupied by Shri S. V. Krishnamoorthy Rao (one of the Panel of Chairmen).]

Various provisions have been suggested in these amendments and these powers might be abused. My submission is that there should be some officer at some stage at least. The Tribunal cannot be entrusted with this matter. There is another point that I want to stress here. There have been cases where two Police Officers have disagreed. A matter like this causes me greater concern because I find that both the Superintendents of Police will not unite together and discuss the differences existing in their minds. Our Superintendent of Police working there will think that every girl has to be returned and the other Superintendent of Police would say that every girl has to be taken away and none should go back. With all this diversity they can certainly go to a judge with these attitudes of mind and I support entirely that every girl should be restored and every citizen or officer of this Dominion shall have the same mental attitude. The other side may have a different attitude. When both of them agree, it is not that both decide judicially or everything was decided on merits. I agree that we are very good boys and we have behaved well. But this might be abused and justice may not be done, even though the cases may be very few. My suggestion in this amendment is 'at one stage' and I have suggested that when an abducted person has been made over to the camp, she must be produced before a magistrate and whether she wants to go or not is not to be left simply with the workers and there has not been a case when she has expressed unwillingness when the environments have changed. There ought to be at some stage some judicial officer who can bring his judicial training and intellect to bear upon the matter when he can say that we are agreeing to this bail, certainly it is a *bona fide* case and if he finds that it is a *bona fide* case, which is included in the definition of an 'abducted person', or the circumstances are such that she should be made over, if the magistrate finds that she should be made over to the camp again, he would send her there and if he finds that it is not a *bona fide* case, then he may release the person forthwith. That is my amendment and I commend it to the House.

Mr. Chairman: Amendment moved:

"That after sub-clause (2) of clause 4 of the Bill, the following new sub-clause be added:

"(3) The officer in charge of the Camp shall, with the least possible delay, cause the person, delivered to his custody, to be produced before a magistrate of the first class, who shall after summary enquiry, satisfy himself whether the person is really an abducted person, and may, in his discretion after considering all the circumstances, either recommit the person to the custody of the officer who produced him or discharge him forthwith."

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I would like to say only two or three words. First of all I think it is wrong for us to look upon a recovered abducted person as occupying the position of an accused person under the Criminal Procedure Code. I am afraid we are too familiar with the provisions of the Criminal Procedure Code and the way in which it deals with police officers and magistrates and whenever any legislation mentions a Police Officer, we think we should put a magistrate on the top in order that the vagaries of the Police might be checked.

Shri H. V. Pataskar: My amendment does not make an abducted person an accused person.

The Honourable Shri N. Gopalaswami Ayyangar: It does not, but I say the mentality is there.

Sardar Hakim Singh: It is because the Police Officer would not behave properly unless he goes to a magistrate.

The Honourable Shri N. Gopalaswami Ayyangar: After all the police officer under the provisions of this legislation is merely an instrument with the minimum of power given to him for the purpose of taking a girl who is under coercion confined in a particular place to some place where she can breathe more freely and the clause particularly requires the Police Officer should with the least possible delay hand the recovered person over to the officer in charge of a camp. As I have told the House the officer in charge of a camp is a woman social worker and it is much better that persons recovered under these circumstances should be handed over to a woman social worker who is the officer in charge of a camp than that she should be treated as an accused person, on the lines of an accused person, and taken to a magistrate for his disposal.

Secondly, there is a particular point which we should always bear in mind, apart from the agreement. This is a matter in which both Dominions are to some extent interested. The decision whether a particular person is an abducted person or not is a matter in respect of which the representative of the other Dominion might also be allowed to have his say and that is why when we created the tribunal under clause 6, we provided for a joint tribunal consisting of an officer from each of the Dominion. As soon as this person is taken to the camp, if there is any dispute about her being an abducted person, the tribunal gets jurisdiction. The officers of the two Dominions confer with each other and come to a decision as to whether the person should be treated as an abducted person or not. I think it is a much more satisfactory way of dealing with this matter than taking this person before a magistrate. For instance, the abductor might claim to be represented before a magistrate; he may get all sorts of evidence adduced before a particular magistrate and all sorts of things will happen. It only makes the life of the poor abducted recovered girl more miserable than perhaps it was before, and that is the reason why we have provided for a tribunal. We do not want to keep the person in the camp longer than is absolutely necessary for the purpose of determining whether she is an abducted person or not. Sir, I very strongly oppose these two amendments that have been moved.

Mr. Chairman: The question is:

"That in sub-clause (1) of clause 4 of the Bill, after the words 'is an abducted person and', the following be inserted:

"produce such person with the least possible delay, before the nearest magistrate of the first class, who shall immediately proceed to examine the person so produced and who shall, if satisfied, grant a certificate that the person is *prima facie* an abducted person and after obtaining such a certificate the police officer shall."

The motion was negatived.

Mr. Chairman: Then amendment standing in the name of Mr. Naziruddin Ahmad.

The Honourable Shri N. Gopalaswami Ayyangar: I do not think I will accept it. I will stick to my own language.

Mr. Naziruddin Ahmad: Then I do not press it.

Mr. Chairman: The question is:

"That after sub-clause (2) of clause 4 of the Bill, the following new sub-clause be added:

"(3) The officer in charge of the Camp shall, with the least possible delay, cause the person, delivered to his custody, to be produced before a magistrate of the first class, who shall, after summary enquiry, satisfy himself whether the person is really an abducted person, and may, in his discretion after considering all the circumstances, either recommit the person to the custody of the officer who produced him or discharge him forthwith."

The motion was negatived.

श्री लक्ष्मीनारायण साहू : स्थानपति जी, इस धारा ४ में जो क्षमता दी गई है मैं उस क्षमता को नहीं चाहता। सर्वप्रथम यह जो शब्द एबडक्टेड पर्सन (abducted person) प्रयोग किया गया है वह बहुत खराब मालूम होता है। एबडक्टेड पर्सन किसको बोलते हैं इसका हम डिक्शनरी मीनिंग देखते हैं तो मालूम होता है कि एबडक्शन (abduction) यह है "carry off or lead away illegally a wife, a child, a voter, etc." इसी लिये मैं कहता था कि जब हम एबडक्टेड पर्सन कहेंगे तो इसमें सब तरह के आदमी आ जाते हैं A child or woman, इतना ही नहीं आता। इसी लिये मेरी आपत्ति है कि एबडक्टेड शब्द को निकाल देना चाहिये।

फिर यहां जो क्षमता दी गई है assistant sub-inspector or any other police officer, specially authorised by the Provincial Government in this behalf, इसके लिये मैं इतना ही कहना चाहता हूं कि जो कैम्प अभी बनाये गये हैं वहां कैम्प में उद्धार करने के लिये घर से निकाल कर लावेंगे और उनको वहां कैम्प में रखेंगे क्योंकि हम कहते हैं कि वहां उनको स्वतन्त्रता मिल जायगी और स्वतन्त्रता मिल जाने के बाद वह अपने दिल की बात कह सकते हैं। इसमें मेरा विश्वास नहीं होता क्योंकि कैम्प का जो एटमोस्फियर (atmosphere) है उसमें भी डर लगता है। पहले तो यह देखना चाहिये कि जो दो वर्ष कहीं भी रह गया है तो उसके लिये अब एबडक्शन नहीं हो सकता। मैं ने तो बम्बई में जा कर देखा कि वहां कितनी ही औरतें एबडक्ट करके लाई गई और वहां वह अब प्रास्टीट्यूशन (prostitution) करती हैं। वह निकल कर आने की कोशिश करती हैं तो आ नहीं सकतीं। उसको हम एबडक्शन कहते हैं। यहां तो वह कोशिश ही नहीं करती हैं कि घर से निकल कर बाहर जायें तो इसको एबडक्शन कैसे कहेंगे। इसी लिये मैं चाहता हूं कि इतनी क्षमता नहीं देनी चाहिये।

फिर सबसे मेरा यह कहना है कि अब जो रिकवरी (recovery) होती है वह बहुत कम हो गई है और हमारे इन्डिया के जो डिप्टी हाई कमिशनर लाहौर

[Shri Lakshminarayan Sahu]

में हैं उन्होंने अपनी ऐसी राय दे दी है कि यह कैम्प चलाने की जरूरत नहीं है क्योंकि जो कुछ हो गया वह हो गया और इसकी अब जरूरत नहीं है। इस लिये मैं चाहता हूँ कि हम उनको जो इतना पावर (power) दे रहे हैं वह नहीं देना चाहिये कि कोई औरत तबलीफ में है और बाहर नहीं आती है लेकिन कोई दूसरा आदमी आकर रिपोर्ट करेगा तो उसके फैक्ट्स (facts) को लेकर उगसा उगसा करने की कोशिश की जायगी। यहां पर मैं तो यह पावर देने के लिये तैयार नहीं हूँ क्योंकि जैसी कि यहां बहुत लोगों की राय है पुलिस के हाथ में जो पावर होती है वह बराबर खराबी के लिये होती है। फिर जो ट्रिब्यूनल (tribunal) है तो वह दो पुलिस वालों के हाथ में है। इस लिये मैं चाहता हूँ कि यह बहुत डेंजरस (dangerous) है और इसको हटा देना चाहिये और अगर नहीं हटाते तो कम से कम इतना ही करना चाहिये कि इन्स्पेक्टर या सब इन्स्पेक्टर को रखें और any other police officer specially authorised जो उसके नीचे का होगा, सब इन्स्पेक्टर के नीचे का आदमी होगा, उसको पावर नहीं देना चाहिये।

(English translation of the above speech)

Shri Lakshminarayan Sahu: Sir, I am not in favour of the power that has been given under clause 4. In the first instance, the word 'abducted person' that has been used appears to be very much inappropriate. Who is an abducted person? When we look up its dictionary meaning we find that 'to abduct' means 'to carry off or lead away illegally a wife, a child, a voter, etc.' So I say that the expression 'abducted person' includes all kinds of people. Its scope is not limited to a child or woman. Hence, I object to the word 'abducted' which should be discarded.

Again, I wish to say something about the power given to an 'assistant sub-inspector or any other police officer, specially authorised by the provincial government in this behalf.' The abducted persons would be taken out of their homes and brought into the camps, that have been set up, for being helped. They would be kept there because we say that there they would have freedom and with freedom they would be able to speak out their mind. I cannot believe in that because the atmosphere of the camp too would inspire fear. In the first instance we should consider the fact that anyone who has lived at a place for two years cannot be regarded as an abducted person. I found in Bombay a number of abducted women now carrying on prostitution. They try to come out of it but cannot. That is what we call abduction. In the present case they make no attempt to come out of their homes. How can we call this abduction? Hence, I want to say that so much power should not be conferred.

Besides, I want to say that the rate of recovery has fallen very low now and India's Deputy High Commissioner in Lahore has given his opinion that it is no longer necessary to run these camps because what is done is done and there is no further need. Hence, I want that we should not give them so much power as we are going to. For instance, some woman is in distress but would not come out, but that if some third person makes a report it would be taken up and efforts made to help her. I am not in favour of such a power being conferred because, as most of the people hold the view, such power in the hands of the police is often used for evil. Again, the tribunal is sought to be composed

of two police officers. I think this would be a very dangerous provision and should be scrapped, and if we do not scrap it we should at least restrict it to an inspector or sub-inspector so that the person referred to as 'any other police officer specially authorised' upon whom such power is conferred should not be below the rank of a sub-inspector.

Shri Mahavir Tyagi: Sir, I have not much to say. In fact the personality of the hon. Minister is so tall and over-towering in stature, both moral and physical, that whenever he stresses a point on which I do not really see eye to eye with him, I succumb to his hypnotic influence and as a rule I begin to doubt my own wisdom. And more so when I dare into the field of legal interpretations. But what does the hon. Minister think about the legal consequences of his shifting the elderly adult women into camps, without really obtaining their consent, that is a question which I am afraid, contravenes the fundamental rights granted to citizens. Women, as I understand, are such a creature that they reconcile themselves with strange environments sooner than men. Because, once they get into a place and exchange their secrets with other members of the family, they become intimate at once. They are the repositories of secrets. They get accustomed to the place where they be. That is their nature. Now about these abducted women, my feeling is, that already violence has been committed on them once, and they have been torn from their families. Now, if they have readjusted themselves and reconciled to the changed environments and established in other families, would it not be another act of violence if they are again uprooted and taken away to the proposed camps against their wishes? Supposing she goes to a camp, here for a month and for a month there, will these two not be the months of torture to her. You cannot be absolutely sure, or even she herself cannot be absolutely sure where she was more secure and comfortable. In fact, we are doing this as part of an agreement. But the question arises whether the hon. Minister has some machinery to see that no adult woman is taken away against her will from here, or even brought here from Pakistan—I am not actuated by any Hindu Muslim feelings, I am speaking purely from the humanitarian point of view. If a woman either here or there gets reconciled, in that case, I am inclined to doubt whether it would not really be another violence on her either to take her here or there without obtaining her consent.

The question then arises whether these women who were born in India and who have been abducted, are or are not the citizens of India. They are citizens of India; their citizenship has not ceased. They were born in India; they have not yet gone to Pakistan; they were not abducted from Pakistan; they have been abducted on the soil of India itself. They are in fact citizens of India. In taking them to Pakistan without their consent, even if the agency be the police or the sanction be the proposed Tribunal, shall we not contravene the fundamental rights sanctioned by the Constitution? They are citizens of India. The fact that their husbands have gone to Pakistan does not deprive the adult wife of her rights of citizenship. They have their own choice to make. In that case I wonder whether this law which we are enacting will withstand the fundamental rights. Under this Act there is the possibility of women being taken to Pakistan without their consent. Therefore I had proposed that a proviso be added that her consent should be taken before she is removed from where she is. I did not press it because the hon. Minister thought that it would not fit well with the scheme, this Bill envisaged. Therefore I have hesitated to move it. Could the hon. Minister please assure the House that there will be no such case where an adult woman would be taken to a foreign country without obtaining her previous consent?

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I am anxious to respond to my hon. friend's suggestion that I should make this position clear. I thought I had made it clear already but in order to remove what is obviously troubling the hon. Member's mind at the present moment I should like to repeat in other words I have said already.

Women of abducted persons are rescued from surroundings which *prima facie* do not give them the liberty to make a free choice as regards their own lives. The object of this legislation is to put them in an environment which will make them feel freer to make this choice. We first take them to a transit camp and then pass them on to a base camp, where the attempt will be to put her original relations in touch with her. It is possible that those original relations, if they happen to have migrated to Pakistan, also might come over to this base camp in Indian territory and contact her. If that is done there is no need to pass her on to Pakistan. But there are cases where the original relatives are in Pakistan and will not have the facilities to contact her in, say, a camp at Jullunder and in those cases we have agreed that these persons should be transferred to a camp in Lahore, where these relatives can go and contact her. Now when they contact her it is open to this recovered person, if she is an adult, and she has the right to make her own choice. She can say "I do not want to go back to you; I should like to get back to the family from which I was recovered in India". In that case the procedure is that she is not to be compulsorily handed over to the relations in Pakistan even if they are her original relations. Her wishes have got to be respected, she will have to be sent back to India and she will be allowed to go where she likes. That is the position. So that, I give this categorical assurance to the hon. Member that where an adult abducted person who is recovered and whose choice is finally to remain where she was, no attempt will be made to hand her over to persons to whom she does not want to go, even if those persons were either her former husband or parents.

Mr. Chairman: The question is:

"That clause 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Shri Lakshminarayan Sahu: Sir, I move:

"That after the existing Proviso to sub-clause (2) of clause 5 of the Bill, the following new Proviso be added;

"Provided further that no girl of the age of 18 years and more be detained in a camp unless she expresses her willingness to be sent to Pakistan."

इस में मुझे कुछ ज्यादा कहना नहीं है।

(I do not want to say anything more in this matter.)

The Honourable Shri N. Gopalaswami Ayyangar: I do not accept it.

Mr. Chairman: The question is:

"That after the existing Proviso to sub-clause (2) of clause 5 of the Bill, the following new Proviso be added;

"Provided further that no girl of the age of 18 years and more be detained in a camp unless she expresses her willingness to be sent to Pakistan."

The motion was negatived.

Mr. Chairman:

The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I move:

"That in sub-clause (1) of clause 6 of the Bill, for the words 'is an abducted person or not', the following be substituted:

'is or is not an abducted person or whether such person should be restored to his or her relatives or handed over to any other person or allowed to leave the camp,'"

This amendment enlarges the functions of the tribunal. In the clause as it stands in the Bill the tribunal has jurisdiction only to this extent, to decide whether a person is or is not an abducted person. But after discussion with hon. Members who have given notice of amendments I came to the conclusion that it is necessary that this tribunal should have these further powers also in order that they might give a decision on all aspects of a person's detention in the camp and his or her disposal from the camp. That is why this has been enlarged.

Shri Jaspat Roy Kapoor: Sir, I would like to move my amendment subject to the acceptance of the hon. Minister. It is a very small amendment which my hon. friend may be pleased to accept. It only suggests that the words "conveyed out of India" should also be included. That may also be one of the alternative issues referred to the tribunal.

The Honourable Shri N. Gopalaswami Ayyangar: I am quite prepared to accept it.

Shri Jaspat Roy Kapoor: In that case I will formally move my amendment:

"That in the amendment moved by the Honourable Shri N. Gopalaswami Ayyangar, after the words 'handed over to any other person' the words 'or conveyed out of India' be inserted."

Shri H. V. Pataskar: Sir, I move:

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

'presided over by a Judge of the High Court and'."

If this amendment is accepted, clause 6 will read like this:

"If any question arises whether a person detained in a camp is an abducted person or not, it shall be referred to, and decided by, a tribunal presided over by a Judge of the High Court and constituted for the purpose by the Central Government."

The amendment is a very simple one. I can understand any objection with respect to a long procedure being followed before a person is taken into custody and after that when the person is brought to the camp. Under clause 8 of the Bill the jurisdiction of the court in such matters is being taken away. But I find that the amendment that has now been moved by my hon. friend the mover in charge of the Bill widens the scope of the present clause 6. Clause 6 was only confined to giving the tribunal or authority the power to decide whether a person is or is not an abducted person. Now it is proposed to widen the clause so as to include in it powers not only to decide whether a person is or is not an abducted person but to decide "whether such person should be restored to his or her relatives or handed over to any other person or allowed to leave the camp." These three things are also now sought to be brought within the purview of the proposed Tribunal. That will, I submit,

[Shri H. V. Pataskar]

seal the fate of the person who is taken custody of and produced in the camp. Therefore it becomes all the more necessary that instead of allowing these matters to be decided by two District Police Officers, one from Pakistan and one from India, it should be in the charge of some judicial authority like a High Court Judge. By this legislation which gives such wide powers to the police officers and to the social workers, we are trying to take away all jurisdiction from the court. I have nothing against the social workers, but their work will end when the abducted person is rescued and produced in the camp. Beyond that the social workers will have nothing to do in this matter and the matter will be decided by the police officers of the two Dominions. It is a misnomer to call this body a Tribunal which is going to decide the fate and liberty of the so-called abducted person. We use the word "tribunal", and what is it to consist of? Only two police officers.

It was said that we who are suggesting some amendments to this Bill are thinking in terms of an abducted person being like an accused, because there is provision of the police as persons who take the abducted persons "into custody". It is not certainly so. Apart from that, I believe it is right that when we call it a "tribunal" it does mean some judicial authority. Otherwise can a "tribunal" be said to consist of two police officers of whom one does not even belong to our Dominion—he belongs to the other Dominion. In that case it is better that we do not have any such tribunal and the fate of the person is allowed to be sealed by the D.S.P. of our Dominion rather than that we should give under this exalted name and judicial appearance such powers to a body which is to consist of two district police officers, over one of whom at any rate we can have no control. I cannot comprehend of such a body being regarded as a tribunal. Looking to the amendment proposed, by the hon. Mover himself and which I may say is going to be accepted, and in view of what I have already said with regard to the other part of the provisions, in a measure which is giving such extraordinary powers to the executive—the police—and social workers. I think that the tribunal must be presided over by a person with a judicial temperament. I hope my amendment will be accepted by the mover.

Shri Upendranath Barman (West Bengal: General): Sir, I beg to move:

"That in sub-clause (1) of clause 6 of the Bill, the following be added at the end:

'but if such person expresses unwillingness to be restored to his or her relatives, the matter shall be decided by a judicial tribunal constituted for the purpose by the Central Government'."

Sir, I recognise that the hon. Minister has also accepted in his own amendment the same principle and purpose for which I have moved my amendment, save and except this that while he empowers the same tribunal with those powers namely to decide whether the person is willing to be restored to the original family or to remain where she is, by my amendment I propose that after the question whether the person is an abducted person or not is decided by the tribunal as has been agreed to by the two Governments, if any occasion arises whereby it is necessary to ascertain the wish of the person whether she should be restored to the original family or be allowed to remain where she is, such matters should not be decided by the tribunal that is at present proposed—which will be constituted only of the S.Ps. of the two Dominions—but by a judicial tribunal. That is the difference. I think that the original clause as it was, meant something different. It was only to decide whether a person is an abducted person or not. After that it was obligatory upon each of the Governments to restore the persons to their original families. If that position remains I have no objection because they are to be restored to their original families and after they go back to their original families they

will reconcile themselves to their old position. But opinions have been expressed on the floor of this House and, along with other Members, by lady Members also that those young girls who do not like to go back to their original families should not be forced to go back. I suppose that in pursuance of their wishes the hon. Minister has expanded the scope of the clause by his own amendment. If that view of the case be held up or conceded, my opinion is that the two S.Ps. constituting the tribunal should not decide the question whether the abducted person is really willing to go back to the original family or not, because police officers are not generally accustomed to do such work. Their duties are generally confined to executive matters. Under the ordinary criminal law in respect of matters like abduction or kidnapping when occasion arises for ascertaining the wishes of the person it is generally done by Magistrates who have got a judicial temperament and judicial notions in these matters. It also happens that sometimes at the first instance when young ladies are brought to the court they remain under the influence of their environment and they have sometimes to say things under coercion and undue influence. In that case, generally the Magistrate after taking a statement takes her alone to a separate room and gives her an assurance that she can speak her mind without any fear and after that she is allowed to go to some place where she may like to go. After ten or fifteen days or a month, the Magistrate again calls for that woman and then giving her all assurances of safety asks her to speak.

Shri Krishna Chandra Sharma: There is no such procedure.

Shri Upendranath Barman: There is. But if the tribunal which is composed of the two S.Ps. has to handle too many cases at a time and as the police officers are generally not accustomed to doing such work, I think their decision may not be quite correct. Apart from that, it is a question of the two Dominions being concerned. When a Hindu girl is taken away from Pakistan and brought to India or when she is asked by the Tribunal in Pakistan, in Lahore or at any other place, as to where she would go, when the matter is decided by the two S.Ps. of the two Dominions, then the other Dominion may not be satisfied if the girl does not choose his Dominion. But if the matter is decided by some judicial authority or by a tribunal composed of judicial members of both the Dominions, then I think it will claim better confidence from both the Dominions. For this reason, I suggest that either a judicial tribunal should be entrusted with the duty of ascertaining the real wish of the abducted woman, or if the other Dominion agrees then the tribunal which is proposed under clause 6 may be constituted by, instead of two police officers, two judicial officers.

Mr. Chairman: I will place the amendments before the House. First of all, I will put the amendment of the Honourable Shri Ayyangar. Amendment moved:

"That in sub-clause (1) of clause 6 of the Bill, for the words 'is an abducted person or not,' the following be substituted:

'is or is not an abducted person or whether such person should be restored to his or her relatives or handed over to any other person or allowed to leave the camp'."

To this, Mr. Jaspat Roy Kapoor has moved an amendment. Amendment to amendment moved:

"That in the amendment moved by the Honourable Shri N. Gopalaswami Ayyangar, after the words 'handed over to any other person', the words 'or conveyed out of India' be inserted."

Then Mr. Pataskar's amendment. Amendment moved.

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

'presided over by a Judge of the High Court and'."

[Mr. Chairman]

Then Mr. Barman's amendment. Amendment moved:

"That in sub-clause (1) of clause 6 of the Bill, the following be added at the end:

"but if such person expresses unwillingness to be restored to his or her relatives, the matter shall be decided by a judicial tribunal constituted for the purpose by the Central Government."

Pandit Thakur Das Bhargava: Sir, I congratulate the hon. Mover of this Bill for being pleased to make the amendment which stands in his name. Now, it is absolutely clear that the scope of the jurisdiction of this tribunal will be enlarged if this amendment is accepted and it will be in their power to hand over such person to any other person or to restore her to the custody of other persons or to allow her to leave the camp. As a matter of fact, unless this existed in this clause the jurisdiction of the tribunal would have been very narrow and the assurance which the hon. mover has given to this House could not have possibly been implemented if this provision was not enlarged. Now, with the enlargement of this provision much of the objection of hon. Members goes away. At the same time, as was just stated by the hon. mover, it is not within his power at present to see that any other kind of tribunal is appointed because according to the agreement with the Pakistan Government the two S.P.s. constitute the tribunal. I quite see the point but he himself was pleased to say that he would try to see that certain modifications are made in regard to the agreement so that it might meet the wishes of the House. I beg of him to kindly consider the point and do all he can so far as this matter is concerned.

We heard in Assam Kamrup Desh men were turned into animals by magic and we also heard of the Kazi of Jaunpur who had the capacity of turning an ass into a man and a man into an ass. But it was left to the two Governments to turn two S.P.s. into a tribunal. The very word "tribunal" denotes to my mind that there is some sort of a judicial person presiding over it. I cannot understand why it is that in no case was there any difference of opinion between the two S.P.s. Either the two S.P.s. were too good, or as a matter of fact they never troubled themselves or they may have bargained that one girl is sent to one side and the other is sent to the other side.

The Honourable Shri N. Gopalaswami Ayyangar: Or all the recoveries were very straightforward?

Pandit Thakur Das Bhargava: That may be so, and if that is so then I have nothing to say if my friend is satisfied because I have nothing with me to controvert him. All the same, having practised in the Courts for the last forty years, I know the S.P.s. are the least competent to decide a complicated question of this sort. What are the questions referred to them? They are: whether a person is abducted or not, whether the person should be made over to the previous husband or the later husband or whether she should be allowed to go away. These are most intricate questions and the S.P.s. are the least competent to decide on them. Moreover, this question relating to abducted persons is a most important question because once it is decided that an abducted person is to be made over to Pakistan it will be difficult for that person to come over to India. And may I just humbly enquire as to what would happen to those provisions of the Constitution which relate to the liberty of the citizen? It is the Courts alone which can decide such intricate questions. If there is no controversy as my friend is pleased to say, then there is no occasion for a tribunal. If the question is so easy as he thinks then there is no occasion for a tribunal. But if he wants a tribunal let him have a good tribunal appointed to decide for all time whether the person is to remain a citizen of India or not.

I can understand that he cannot have any tribunal at all and say that we are helpless as there is nothing in the agreement, but if you want to have a tribunal I would beg of the hon. Minister to kindly see that a proper tribunal is appointed. Section 8 says:

"Notwithstanding anything contained in any law for the time being in force, no Court shall have jurisdiction—

(a) to entertain or adjudicate upon any question whether a person is or is not an abducted person;"

I know the hon. Minister has given an amendment to this. I am very happy about it and I congratulate him in advance that he has taken away sub-clauses (a) and (c). But if the clause is allowed to remain there without amending it, then the decisions which this tribunal takes will be of a very delicate nature and will be of very great importance to persons in the predicament in which they will find themselves. My humble submission, therefore, is that not only should (a) and (c) be taken away but (b) also should be taken away. Therefore, the scope of the tribunal should be enlarged. This is a good reason for the personality of the tribunal also to be changed because whereas this was a simple question now it is a much more complicated one.

Therefore, I would beg of the hon. Minister to do his very best to see that there is an agreement about this that the tribunal to be appointed consists of judicial persons and persons experienced in judicial tribunals because the question before them will be of a very complicated nature.

Shri Ajit Prasad Jain: Sir, much of what I wanted to say has already been said by my hon. friend Pandit Thakurdas. As it will be seen from the amendment of the hon. Minister, the scope of the matters on which this tribunal will be entitled to adjudicate has been very much widened. The Tribunal will have the authority not only to decide whether a person is or is not an abducted person but it will also pass orders as to whether the person should be restored to his relatives or handed over to any other person or be allowed to leave the Camp or be conveyed out of India. Obviously the recovered person is a domicile of India. He or she may have been separated from the family and may at the time of recovery be living in another family but the Tribunal will have the right to send that person out of India. That is a very serious thing and no one except an independent authority should have the power to decide a question like that. It will be too much to entrust these powers to Superintendents of Police and I do hope that whatever may be the difficulties arising from the agreement, the hon. Minister will see that a matter of such great importance is not left to the decision of Police Officers who, I may submit, are by no means very judicial-minded but to persons competent to decide questions of that nature. The proposition is such an eminent one that Pakistan should have no difficulty in accepting a proposal of that kind and in fact it will be a reciprocal proposal. Whatever may be its effect on India, there will be corresponding effect in Pakistan but the liberty of the citizens is a great thing and it will be unfortunate if that liberty is left to the hands of incompetent persons or persons who are not well-equipped to decide those questions. I do hope that the hon. Minister will make it a point to see that a proper kind of tribunal is set up.

श्री लक्ष्मीनाराण साहू : जो मेरा संशोधन है वह इस तरह है :

(My amendment is as follows:)

"That in sub-clause (2) of clause 6 of the Bill, for the words 'shall be final' the following be substituted, namely:

'shall be appealable to the High Court.....'"

Mr. Chairman: I am sorry that will come later.

The Honourable Shri N. Gopalaswami Ayyangar: I fully appreciate the point of view that has been put before the House by those hon. Members who have expressed a preference for a strictly judicial tribunal to function under clause 6 of this Bill. Now as my hon. friend Pandit Bhargava has recognized, it is not possible for us to put into this Bill anything of the kind that has been suggested in the shape of these amendments, either a High Court Judge presiding over this Tribunal or a Special Judicial Tribunal to be constituted by the Central Government. So long as the agreement stands, we have got to work it but I might point out to the House that if it is possible for the two Dominions to agree upon to changing the Constitution of this Tribunal on the lines suggested by hon. Members or in other ways there will be nothing in this Bill which will prevent that so long as an agreement is arrived at. That is a matter of negotiation between the two Dominions.

So far as the criticisms regarding the functioning of the Police Officers' Tribunals are concerned, I wish to tell the House that this Tribunal has worked very satisfactorily. In cases where the two members of the Tribunal were unable to agree in the first instance, they referred the matter for advice to two high-powered officers, viz., a Commissioner of a Division in India and a Chief Secretary of a Province in the other Dominion. After getting their advice, they considered it and came to a decision finally in agreement. In cases where the intricacies of the particular dispute were such as to involve questions of policy, one or two cases have been referred to me, for advice and on the other side to the Minister in-charge of this work in the other Dominion and that has guided.....

Shri Jaspat Roy Kapoor: Will this procedure be possible to be adopted hereafter in view of sub-clause 2 of clause 6?

The Honourable Shri N. Gopalaswami Ayyangar: There is nothing which prevents it. This is only a question of taking the advice of people who are of a higher status with more experience and who can determine questions of policy and so forth. There is nothing to prevent it. Therefore I am only mentioning that to show that we have this point which hon. Members have stressed so much always in view and have tried to see that satisfactory decisions are arrived at. But if we want to change the character of the Tribunal, that should be a matter of further negotiations with the other Dominion and if there is necessity for doing so, we shall take necessary steps.

I hope hon. Members will accept the amendment I have moved as amended by the further amendment of Mr. Jaspat Roy Kapoor.

Mr. Chairman: What about other amendments?

The Honourable Shri N. Gopalaswami Ayyangar: I do not accept any of the other amendments.

Mr. Chairman: I will put the amendment of the hon. Mr. Gopalaswami Ayyangar. There is an amendment to this amendment by Mr. Kapoor. I will put it first.

The question is:

"That in the amendment moved by the Honourable Shri N. Gopalaswami Ayyangar, after the words 'handed over to any other person', the words 'or conveyed out of India' be inserted."

The motion was adopted.

Mr. Chairman: I will now put the amendment of Shri Gopalaswami Ayyangar as amended by Mr. Kapoor's amendment.

The question is:

"That in sub-clause (1) of clause 6 of the Bill, for the words 'is an abducted person or

not', the following be substituted:

"is or is not an abducted person or whether such person should be restored to his or her relatives or handed over to any other person or conveyed out of India or allowed to leave the camp."

The motion was adopted.

Mr. Chairman: The question is:

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

'presided over by a Judge of the High Court and'."

The motion was negatived.

Mr. Chairman: I will now put Mr. Barman's amendment.

Shri Upendranath Barman: I would like to withdraw my amendment.

Mr. Chairman: Has the hon. Member leave of the House to withdraw his amendment?

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

Mr. Chairman: We go to sub-clause (2) of clause 6. There are three amendments. Are any of them acceptable to the hon. Minister?

The Honourable Shri N. Gopalaswami Ayyangar: I do not accept any of the amendments.

श्री लक्ष्मीनारायण साहू : मेरे नाम में दो संशोधन हैं। मैं दोनों एक साथ मूव करता हूँ :

"That in sub-clause (2) of clause 6 of the Bill, for the words 'shall be final' the following be substituted:

'shall be appealable to the High Court of the Province in which the Tribunal is situated, or where there is no High Court, to the Supreme Court'."

Mr. Chairman: The other is a negative amendment and it is therefore out of order.

Shri C. Subramaniam: It only relates to sub-clause (2). You will be putting the whole clause to vote. So, it will be a substantial amendment, and not merely a negative amendment.

Mr. Chairman: The hon. Member may move it then.

Shri Lakshminarayan Sahu: I move:

"That the Proviso to sub-clause (2) of clause 6 of the Bill be omitted."

इसके अन्तर्गत मैं दो संशोधन नहीं करना चाहता हूँ। एक मत यह है कि जो विचारणीय तत्त्व हैं उनका यहाँ प्रबन्ध होना चाहिये और जो क्रियाशील, एग्जीक्यूटिव तत्त्व (Executive type) का है वह आदमी ट्रिब्यूनल (Tribunal) में रहना ही चाहिये है। उनका ही कहना काफी है और ज्यादा कुछ नहीं। ट्रिब्यूनल जब हम कहते हैं कि वह ब्याल आता है कि जज के मवाफिक आदमी होना चाहिये, वह तत्त्व विचारणीय तत्त्व का आदमी नहीं होना चाहिये। इसीलिये मैं ज्यादा समय नहीं लेना चाहता हूँ। दोनों संशोधन मैं मूव करता हूँ।

(English translation of the above speech)

Shri Lakshminarayan Sahu: Two amendments stand in my name. I move both the amendments simultaneously:

"That in sub-clause (2) of clause 6 of the Bill, for the words 'shall be final' the following be substituted:

'shall be appealable to the High Court of the Province in which the Tribunal is situated, or where there is no High Court, to the Supreme Court'."

Mr. Chairman: The other is a negative amendment and it is therefore out of order.

Shri C. Subramaniam: It only relates to sub-clause (2). You will be putting the whole clause to vote. So, it will be a substantial amendment and not merely a negative amendment.

Mr. Chairman: The hon. Member may move it then.

Shri Lakshminarayan Sahu: I move:

"That the Proviso to sub-clause (2) of clause 6 of the Bill be omitted."

I do not want to enter in detailed discussion on this matter. The first suggestion is that persons of considerate disposition should be appointed on the Tribunal. It is not proper to appoint persons of executive type having active temperament on this Tribunal. It is sufficient to say so much only and not more. Whenever we talk of Tribunals we always keep in mind the fact that the persons appointed thereon should be agreeable to the hon. Judge, they must not be of the executive type. Therefore I do not take any more time and move both the amendments.

Shri Jaspat Roy Kapoor: Sir, I beg to move:

"That in the Proviso to sub-clause (2) of clause 6 of the Bill the following be added at the end:

'after giving to the person or persons interested or concerned, reasonable opportunity of being heard'."

Sir, the sub-clause after the incorporation of my amendment would read thus:

"(2) The decision of the tribunal constituted under sub-section (1) shall be final:

Provided that the Central Government may, either of its own motion or on the application of any party interested in the matter, review or revise any such decision after giving to the person or persons interested or concerned, reasonable opportunity of being heard."

Sir, I venture to move this amendment in the hope and belief that hon. Shri Gopalaswami Ayyangar would consider it not only reasonable, but very necessary. Obviously when the Central Government is going to review or revise the decision of the Tribunal, it must before passing its final order, give a reasonable opportunity to the person or persons concerned or interested in the matter to represent their case. This, I think, Sir, is an elementary principle of jurisprudence. But it may be said that principles of jurisprudence find no place here. Be that as it may, there is no doubt about the fact that a person who is going to be affected by the order must have an opportunity to be heard. I am sure, Sir, that this principle will be acceptable to the hon. the Mover.

Mr. Chairman: Amendments moved:

(i) "That in sub-clause (2) of clause 6 of the Bill, for the words 'shall be final' the following be substituted:

'shall be appealable to the High Court of the Province in which the Tribunal is situated, or where there is no High Court, to the Supreme Court'."

(ii) "That the Proviso to sub-clause (2) of clause 6 of the Bill be omitted."

(iii) "That in the Proviso to sub-clause (2) of clause 6 of the Bill the following be added at the end:

'after giving to the person or persons interested or concerned, reasonable opportunity of being heard'."

The Honourable Shri N. Gopalaswami Ayyangar: Sir, with regard to the first amendment, my only answer is that it does not fit into the scheme of this Bill at all. I have given my reasons for it in connection with other clauses which raised more or less the same issue more than once and I do not wish to repeat what I have already said.

As regards the second amendment, in a sense, it is not different from the first amendment, but as I did not accept it, it is necessary there should be an authority to review, to revise a decision of the Tribunal and that should be vested in the Central Government. Therefore, that proviso as it is should remain.

As regards my hon. friend Shri Jaspat Roy's amendment I quite see that ordinary principles of jurisprudence would require this thing to be done, but the mere fact that these words do not find a place in a particular clause does not necessarily mean that that opportunity will not be given. I should also like to mention that as the power of revision or review is vested in the Central Government it will oftentimes not be necessary for them to give a fresh opportunity to a party interested or concerned, because all the facts, all their contentions, will be reported on to the Central Government before they take a decision. Nor will it be convenient for them in every such case to give an opportunity and hold a regular hearing before coming to a decision. I think hon. Members might well trust the Government to see that the point of view of the party interested or concerned is always placed before them before they take a decision. So I suggest that he does not press his amendment.

Shri Jaspat Roy Kapoor: I agree not to press it, Sir.

Shri Lakshminarayan Sahu: I want my amendments to be put to the House.

Mr. Chairman: The question is:

"That in sub-clause (2) of clause 6 of the Bill, for the words 'shall be final' the following be substituted:

'shall be appealable to the High Court of the Province in which the Tribunal is situated, or where there is no High Court, to the Supreme Court'."

The motion was negatived.

Mr. Chairman: The question is:

"That the Proviso to sub-clause (2) of clause 6 of the Bill be omitted."

The motion was negatived.

Shri Jaspat Roy Kapoor: Sir, I wish to withdraw the amendment.

Mr. Chairman: Has the hon. Member leave of the House to withdraw his amendment?

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

Mr. Chairman: The question is:

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

The motion was adopted.

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

Sjt. Rohini Kumar Chaudhuri: Sir, I move:

"That in sub-clause (2) of clause 7 of the Bill, for the words 'and hold the person in custody', the words 'the person' be substituted."

The amended section will read thus:

"Any officer of authority to whom the custody of any abducted person has been delivered under the provisions of sub-section (1) shall be entitled to receive the person in custody and either restore such person to his or her relatives or convey such person out of India."

What I object to under this clause is that there are so many bringing in and bringing out of the custody under this law that it is very objectionable. First of all, the Asst. Sub-Inspector takes charge of the woman. He keeps that woman in his custody for some time; no definite period has been prescribed for detention in his custody. As I had once before, even in the Criminal Procedure Code there is a time limit prescribed, 24 hours, but here under this law no such time limit has been prescribed. After keeping the woman in his custody for some time, he makes her over to the Camp, and in the Camp she remains for some length of time. What is the length of time during which she can be detained has not been prescribed in this latter case also. After that what happens? She is handed over to any other officer and that officer is entitled to keep her in his custody for some time. And so three opportunities are given for her to be detained: The woman can be detained once by the Asst. Sub-Inspector, then by the officer in charge of the Camp and then again by another officer who keeps the woman for some time and then either takes her out of India or restores her to her relatives. What is the idea of this third officer keeping the woman in his custody? The woman can be brought out of the camp only when everything is ready, when she can either be restored to her relatives or sent out of India. Where is the necessity for this woman being kept in his custody for any length of time. In the first case, there is some qualification. It is said that she should be handed over to the Camp as early as possible with the least possible delay. In the third case, in the final stage, there is no limit of time during which the woman can be kept in custody? Why this generosity to this third officer I do not understand. So, Sir, I submit that the clause should be amended in the manner I have suggested so that you should make enquiries immediately and either hand her over to her relatives or send her out of India. That is my whole point.

Mr. Chairman: Amendment moved:

"That in sub-clause (2) of clause 7 of the Bill, for the words 'and hold the person in custody', the words 'the person', be substituted."

Shri Ajit Prasad Jain: Sir, I beg to move:

"That in sub-clause (2) of clause 7 of the Bill, the following be added at the end: 'as the Provincial Government may direct'."

In order to appreciate the implications of this amendment, I would like to explain the procedure for the recovery of abducted persons that is laid down in this Bill and contemplated in the Inter-Dominion Agreement. As soon as a Police Officer gets information about an abducted person, he goes and recovers that abducted person and with the least possible delay, he will carry that abducted person to what are known as primary camps. From that camp, that person is liable to be sent to a transit or basic camp, if both the superintendents of police—one from India and the other from Pakistan—agree that a person is an abducted person or otherwise, the matter ends. In case of doubt, the person has necessarily to be carried to the transit camp. I am referring, Sir, to paragraph 8 of the Inter-Dominion Agreement, which says:

"Even in doubtful or resisting cases, no recovered women will be given up or released without being brought to the Provincial Transit Camp at Lahore or Jullundur except where the Provincial Organiser of the other Dominion agrees to such a course in any special case."

After the recovered women are brought to the Provincial Transit Camp at Lahore or Jullundur, each doubtful or resisting case should be enquired into and resolved by the S.P.s. The case may be referred to High Powered Officers of the two Dominions for resolution."

Now, these transit camps according to para. 2 of the Inter-Dominion Agreement are managed in the case of the Jullundur Camp by the two social workers of Pakistan, and in the case of the Lahore Camp by the two social workers of India. From these transit camps....

The Honourable Shri N. Gopalaswami Ayyangar: Base camps.

Shri Ajit Prasad Jain: I am referring to paragraph 2, and then they call these camps as transit camps.

The Honourable Shri N. Gopalaswami Ayyangar: Now called Base Camps.

Shri Ajit Prasad Jain: Now from these Base Camps, abducted persons can be transferred from Jullundur to Lahore and from Lahore to Jullundur. Arrangements for transporting from Jullundur to Lahore will be under the workers of Pakistan. Now, Sir, this means that once an abducted person is handed over to the Base Camp at Jullundur, that person will continuously remain in the custody of the social workers of Pakistan. Now, the present clause authorises any officer in charge of the camp to deliver any abducted person detained in the camp to the custody of such officer or authority as the Provincial Government may, by general or special order, specify in this behalf. What are the powers of the person to whom an abducted person has been entrusted under sub-clause (1)? He is entitled to hold that person in custody and either restore such person to his or her relatives or convey such person out of India. It is a very serious thing that a citizen of our Dominion should be sent out of that Dominion and that such decision should be in the hands of the persons managing the Base Camp at Jullundur. Such orders should be passed by the Provincial Government so that the people may have confidence. In fact, during the past two or three days that this Bill has been under discussion, much has been said against the method in which recovery of abducted person is being done. I do not necessarily subscribe to those complaints, but I do submit that the procedure laid down in this Bill should be one which will inspire confidence in this country, and therefore I have suggested this small amendment that final orders as to whether a person should or should not be conveyed out of India should be passed by a responsible authority and i.e. the Provincial Government, and not by persons managing the Base Camp at Jullundur.

The Honourable Shri N. Gopalaswami Ayyangar: May I draw the hon. Member's attention to the amendment to clause 6 which we have just passed. The decision as to whether a person should be conveyed out of India will be in the hands of the Tribunal.

Shri Ajit Prasad Jain: Section 7 is independent of Section 6 of the Bill. In fact, this sub-clause (2) refers only to cases where a person has been delivered to the custody of a person, not under clause 6 at the instance of the Tribunal but at the instance of the Provincial Government.

The Honourable Shri K. Santhanam: Clause 7 can come into operation only after the procedure in clause 6 has been observed, and the officer has to be appointed by the Provincial Government; not by Pakistan but by our own Provincial Government.

Shri Ajit Prasad Jain: If no person will be sent out of India except under the orders passed by the Tribunal, I have no objection, but if clause 6 and clause 7 contemplate some cases in which even a single person can be sent out of India without the orders of the Tribunal, then I have very strong objection to that.

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as to whether a person is an abducted person or not, and from the beginning, from the point of recovery to the point of taking to the camp and coming to a decision as to whether she is an abducted person or not, nobody raises any objection. Everybody is agreed about it. So in order to smoothen the early restoration of the person to her relatives action is taken for the purpose of handing over, but if any question is raised about whether she is an abducted person or not, then the thing is put before the tribunal. That is what is done at present. I can also tell the hon. Member that we have got checks against this sort of abuse. One is that these camps are run under the general supervision of the Deputy Commissioner of the District who has got to go to the camps and see which persons have come in, who have been handed over, and so forth. The Tribunal itself when it sits over a particular case, also looks into the working of a particular camp and sees that things are properly done, and so on. That is what happens at present. It is quite within our power in regulating the procedure, to issue instructions to the Tribunal that the Tribunal should look into every case before a final order is made as to particular persons. If the hon. Members are anxious that I should issue the instructions, I shall do so.

Dr. P. S. Deshmukh: That should be the only body which will declare any person to be an abducted person. Unless this is done, there are likely to be difficulties.

Sjt. Rohini Kumar Chaudhuri: I withdraw my amendment.

Mr. Chairman: Has the hon. Member leave of the House to withdraw his amendment?

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

Shri Ajit Prasad Jain: In view of the assurance given by the hon. Minister that no abducted person will be sent out of India except under the orders of the tribunal, I withdraw my amendment.

Mr. Chairman: Has the hon. Member leave of the House to withdraw his amendment?

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

Mr. Chairman: The question is:

"That Clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I propose to move my amendment so that the other amendments may be avoided. This particular clause is an elaboration of the corresponding clause in the ordinance now in force. That clause is in keeping with and in the same terms as the corresponding clause in the Pakistan ordinance. After considerable discussion, I agreed to restore the clause in the existing ordinance for the main reason that at present the Pakistan ordinance does not contain it and it is best to make a change in this particular clause after an agreement has been reached with Pakistan. So I move:

"That for clause 8 of the Bill, the following be substituted:

'8. *Detention in camp not to be questioned by Court.*—Notwithstanding anything contained in any other law for the time being in force, the detention of any abducted person in a camp in accordance with the provisions of this Act shall be lawful and shall not be called in question in any court.'"

Mr. Chairman: Amendment moved:

"That for clause 8 of the Bill, the following be substituted:

'8. *Detention in camp not to be questioned by Court.*—Notwithstanding anything contained in any other law for the time being in force, the detention of any abducted person in a camp in accordance with the provisions of this Act shall be lawful and shall not be called in question in any court.'"

Prof. Shibban Lal Saksena (U. P.: General): Sir, I beg to move:

"That clause 8 of the Bill be omitted."

Mr. Chairman: It is a negative amendment; it is out of order.

Prof. Shibban Lal Saksena: This is a clause in a Bill.

Some Honourable Members: No, No.

Mr. Chairman: This is a full clause.

Pandit Thakur Das Bhargava: I do not propose to move my amendment; but I propose to speak on the clause.

Sardar Hukam Singh: My amendment has been virtually accepted by the hon. Minister; I need not move it.

Mr. Chairman: Part (b) does not exist in the new amendment. Does the hon. Member Sjt. Rohini Kumar want to move his amendment?

Shri C. Subramaniam: It still exists; an amendment to the existing clause has just been moved by the hon. Minister. The existing clause is still there.

The Honourable Shri N. Gopalaswami Ayyangar: That won't exist. That is the amendment.

Mr. Chairman: It won't exist if that amendment is accepted, and that amendment has been moved by the hon. Minister. In view of that, does **Mr. Rohini Kumar Chaudhuri** want to move his amendment?

Sjt. Rohini Kumar Chaudhuri: I do not quite follow, Sir. If the hon. Minister's amendment is for having a new clause, we have a right to amend it.

Mr. Chairman: But, the hon. Member has not sent in any amendment to that.

Sjt. Rohini Kumar Chaudhuri: It has been circulated now.

Mr. Chairman: Sufficient notice of that has been given. The hon. Member should give three days' notice for any amendment.

Sjt. Rohini Kumar Chaudhuri: If you hold my amendment out of order, I do not move; otherwise I shall move. If you think it is in order, I shall move it.

Mr. Chairman: I cannot rule it out of order. In view of the amendment moved by hon. Shri N. Gopalaswami Ayyangar, this should be out of place. It is for you to move or not.

Shri T. A. Ramalingam Chettiar (Madras: General): That amendment may be put to vote and if that is accepted this will not arise.

Mr. Chairman: I shall put it to vote and if it is not accepted, you can move your amendment.

Shri Jaspat Roy Kapoor: On a point of order, Sir. Will it be in order to put one amendment to a clause to vote and not allow the others to be moved simultaneously? It is possible that some of us—I am only talking about

[Shri Jaspat Roy Kapoor]

the propriety of the procedure—may accept Mr. Rohini Kumar Chaudhuri's amendment. The ordinary procedure adopted so far has been that all the amendments to a particular clause are allowed to be moved and then they are put to the vote.

Mr. Chairman: This is a clause which substitutes the whole clause. If that is adopted, all other amendments will be out of order. It has always a preference.

The Honourable Shri N. Gopalaswami Ayyangar: There is no point in any amendment being moved to some clause which I do not own.

Mr. Chairman: The new amendment is under discussion.

Shri Jaspat Roy Kapoor: I do not think the position is like that. It is not as if the original clause is not owned by the hon. Shri N. Gopalaswami Ayyangar. If it is not owned by him, there is no section to which an amendment can be moved by him. I think the procedure is, first the original clause 8 should be moved. That is always taken to be moved formally. It is only when that does exist, that any amendment from any Member, even though he may be the Minister in charge, can be moved.

Mr. Chairman: Since this is an amendment substituting the old section, it has preference over other amendments. If that is accepted, all the other amendments will be out of order. I think it is perfectly all right.

Pandit Thakur Das Bhargava: Sir, I again have to congratulate the hon. the mover of the Bill for bringing this amendment before the House. The original parts (a) and (b) of clause 8 were objectionable. I am very glad that they have been removed by this amendment.

But, the proposed amendment contains the same words existing in the provisions of the Pakistan Ordinance. What I object to both in this amendment as well as in the Pakistan Ordinance are, these words: "and shall not be called in question in any court", which means, Sir, that even the Supreme Court, when it comes into existence, will not be competent to call in question any such detention. If you will kindly see the agreement between Pakistan and India, there is no such provision, that the power of the High Courts and the Supreme Court wherever existing shall be taken away. It may be contended that the Supreme Court has not come into existence. But, we know very well that the Supreme Court is coming into existence and we cannot deliberately frame our laws in such a manner that we ignore the possibility of jurisdiction being exercised by the Supreme Court. The detention contemplated under this Bill shall not be questioned by any court of law and it takes away the fundamental rights of the citizens of India. So far as the detention is concerned it is perfectly right to say that it is lawful. But to say that this detention will not be questioned any more is too much. Therefore I submit that this is opposed to the fundamental rights guaranteed in the Constitution and is opposed to section 491 of the Criminal Procedure Code. The writ of *habeas corpus* is always open and I do not think that we shall be doing the right thing by using these words and specially when this agreement does not bind us to have a provision like this, I do not think we are justified in having these words.

Sjt. Rohini Kumar Chaudhuri: Sir, I want to have the position made clear. Clause (c) says:

"to question the legality of any action taken under section 4 or section 7 by any police or other officer or authority for the recovery and restoration of any abducted person."

In the new amendment of the hon. Minister this has been omitted with the result, I hope, that it will be competent for any person to question the legality of any action under section 4 or 7. That would be reasonable also, because although there is a provision for an appeal or revision under clause 6, the "Central Government may either of its own motion or on the application of any party interested in the matter, review or revise any such decision." But so far as the more objectionable clauses 4 and 7 are concerned where police officers have been given authority, there is no provision for appeal. Therefore it stands to reason that clause (c) should be dropped. The new amendment only covers clause (b), viz., "to question the detention of any abducted person in a camp in accordance with the provisions of this Act." That cannot be questioned but the rest of the matter can be questioned. If that is the view I would have no objection.

The Honourable Shri N. Gopalaswami Ayyangar: The hon. Member is a lawyer and he can certainly interpret the clause. If only detention is mentioned as being barred from the jurisdiction of a court of law, other things are left open.

Pandit Hirday Nath Kunzru (U. P.: General): What does the hon. Minister mean?

The Honourable Shri N. Gopalaswami Ayyangar: I only wish to mention in answer to Pandit Thakur Das Bhargava....

Pandit Hirday Nath Kunzru: Does any detained person have a writ of *habeas corpus* to the Supreme Court or not?

The Honourable Shri N. Gopalaswami Ayyangar: As it is there is no specific barring of *habeas corpus* in the Bill that is before the House now. But in view of the fact that my hon. friend Pandit Thakur Das Bhargava referred to what might or might not happen under the new Constitution the only thing that I can draw attention to is, if it is considered that it is a curtailment of personal liberty and it affects article 21 of the Constitution, so long as we prescribe a procedure by law for the curtailment of such liberty, that procedure will be followed under article 21. Of course hon. Members know that there is a clause about the Supreme Court's interference in the shape of writ of *habeas corpus* or other kinds of writs. If the interpretation should be that what we have provided in this particular Bill is not quite in accordance with article 21 or any other provision of the Constitution, then of course the remedy under the Constitution for a writ of *habeas corpus* will remain. Or if it is considered that the Central Legislature has overstepped its bounds in enacting this law and that it is not consistent with the constitution, it becomes invalid after the constitution comes into force, unless as the hon. Member knows the President meanwhile issues some order to bring the provisions of a previous law into conformity with the Constitution. That, so far as I am able to say at present, on a cursory look into the Constitution, will be the position.

Pandit Hirday Nath Kunzru: Should not that matter be considered further? This particular clause which the House is considering may be in accordance with the law now but in a very short time the Constitution of India will come into force. Is it not necessary for Government then to see whether the provision that they have included in the Bill will be in consonance with the Constitution of India? My hon. friend Shri Gopalaswami Ayyangar has drawn attention to article 21 of the Constitution, which is as follows:

"No person shall be deprived of his life or personal liberty except according to procedure established by law."

[Pandit Hirday Nath Kunzru]

We all know that when this particular article was under consideration it gave rise to a great deal of debate and the form in which it has been cast did not give satisfaction to the Constituent Assembly. But then we found under another article that the Supreme Court will have the right to consider whether a person has been lawfully detained or not. It may be that if a person has been detained in accordance with the law the Supreme Court may be unable to do anything. Is the object only detention or will it prevent a person from making an application to the Supreme Court to consider the legality of his detention?

When it is said that action taken under this Act shall not be questioned in any court of law what we should like to know is whether this prevents an aggrieved person from applying to the Supreme Court to consider whether his detention is in accordance with law. If this procedure will allow an appeal under this Act what is the purpose of having such a provision in the present Act?

The Honourable Shri N. Gopalaswami Ayyangar: May I explain the position? I do not think that anything in this law would, after the coming into force of the new Constitution, prevent any person detained in a camp from applying to the Supreme Court for redress on the ground that he had been deprived of his personal liberty against the law of the land. The application can certainly be made. If the hon. Member wants me to say whether he will necessarily obtain a writ of *habeas corpus* on such application, it is not a matter on which I can give a ruling today. That will depend upon what the Supreme Court then thinks of the validity of this particular law.....

Shri C. Subramaniam: It will depend upon the circumstances of each case.

The Honourable Shri N. Gopalaswami Ayyangar: Yes. So far as the question whether we should not consider this matter now fully and enact something which may not be in accordance with the powers of the Central Legislature under the Constitution, all I have to say is that when the time arrives for our examining the existing laws for the purpose of seeing whether they are in conformity with the Constitution, if we come to the conclusion that there is something in this Bill which is not quite in accordance with it but that still we want the substance of it to be retained, in order to bring the provisions of this law into conformity with the Constitution we have taken power under the Constitution for enabling the President during a certain period after the Constitution comes into force to issue such orders as may be necessary to bring it into such conformity. That is what I referred to in my previous remarks.

Dr. P. S. Deshmukh: I do not think the position is quite clear. What my hon. friend Pandit Hirday Nath Kunzru wanted to know was whether by this legislation it was the intention of the Mover to keep the *habeas corpus* petition open or not. It is no use saying it will depend on the Supreme Court to decide. What is the intention of the Government in this respect? Are these provisions expected to bar it or is the position otherwise?

Shri C. Subramaniam: We cannot bar it, even if we wish to.

Pandit Thakur Das Bhargava: Such a provision will be void and the President or the Committee which will be appointed to adapt these laws with reference to the provisions of the Constitution will ultimately decide the matter under section 372 of the Constitution.

Mr. Chairman: I think the hon. Minister has made the position clear.

The question is:

"That for clause 8 of the Bill, the following be substituted:

'8. *Detention in camp not to be questioned by Court.*—Notwithstanding anything contained in any other law for the time being in force, the detention of any abducted person in a camp in accordance with the provisions of this Act shall be lawful and shall not be called in question in any court.'

The motion was adopted.

Mr. Chairman: The question is:

"That clause 8, amended, stand part of the Bill."

The motion was adopted.

Clause 8, as amended, was added to the Bill.

Clause 9 was added to the Bill.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I move:

"That in part (b) of sub-clause (2) of clause 10 of the Bill, for the full-stop at the end, a semi-colon be substituted and the following new part be added:

'(c) the manner in which any abducted person may be delivered to the custody of any officer or authority under Section 7 or restored to his or her relatives or conveyed out of India by any such officer or authority.'

This results from the enlargement of the functions of the Tribunal which we have carried out in clause 6. We take power to frame rules for governing the procedure in respect of all these matters.

Mr. Chairman: Mr. Jaspat Roy Kapoor has tabled two amendments to clause 10. Are they acceptable?

Shri Jaspat Roy Kapoor: I think they will be helpful to the Government. They are only intended to fill in a *lacuna*. If the hon. Minister feels like accepting them I will move them, otherwise not.

The Honourable Shri N. Gopalaswami Ayyangar: Sir, I do not think they are very necessary. We have the general power to make rules.

Mr. Chairman: The question is:

"That in part (b) of sub-clause (2) of clause 10 of the Bill, for the full-stop at the end, semi colon be substituted and the following new part be added:

'(c) the manner in which any abducted person may be delivered to the custody of any officer or authority under Section 7 or restored to his or her relatives or conveyed out of India by any such officer or authority.'

The motion was adopted.

Mr. Chairman: The question is:

"That clause 10, as amended, stand part of the Bill."

The motion was adopted.

Clause 10, as amended, was added to the Bill.

Clause 11 was added to the Bill.

Shrimati G. Durgabai (Madras: General): There are two amendments standing in my name. They are in the Revised Consolidated List.

Mr. Chairman: Are they acceptable to the hon. Minister?

The Honourable Shri N. Gopalaswami Ayyangar: I think I gave the hon. Member a different impression. If she has no objection I shall accept the substance of one of her amendments to Clause 1.

Shri Jaspat Roy Kapoor: Sir, I beg to move:

"That in sub-clause (2) of clause 1 of the Bill, the words 'the United Provinces' and the words 'and the United State of Rajasthan' be omitted."

Sir, this is an amendment about which I have strong feelings and views. I consider that it is absolutely unnecessary to rope in the United Provinces and the United State of Rajasthan within the four corners of this legislation. There is absolutely no justification for it. I do not think it will be possible for the hon. Mover to take his stand on any provision of the Agreement between this Dominion and the other Dominion. The Agreement nowhere lays down the particular States to which this legislation should be made applicable. The underlying idea of the legislation I understand is simply this that such a legislation should be enacted for the purpose of recovering women and children from States where they have been abducted. But the United Provinces and the United State of Rajasthan are the two particular places which I find were not guilty of having abducted many women and children.

The Honourable Shri N. Gopalaswami Ayyangar: Did the hon. Member say "any" or "many"?

Shri Jaspat Roy Kapoor: I said "many", but then I will be absolutely on safe ground so far as the United Provinces is concerned if I use the word "any". In the original Ordinance which was promulgated in January 1949 the United Provinces was not mentioned at all. I do not understand what new circumstances have arisen between January 1949 and now to have necessitated the incorporation of the United Provinces within the purview of this Bill. I would like to refer the hon. mover of this Bill to the *Rehabilitation Review* which has been published by the Rehabilitation Department which gives the figures regarding recovered persons between the 1st of August, 1948, and June 1949. During this period I find from table 3 printed on page 44 of this *Review* that only ten persons were recovered from any portion of the country outside East Punjab and the P.E.P.S.U. So far as the U. P. is concerned, I think not one abducted person has been recovered during this period from U. P. I am also inclined to the view that even during the period subsequent to June 1949, and up till now, there has been no case of an abducted person having been recovered from U. P. Why then should this legislation be made applicable to the United Provinces and to the United States of Rajasthan? We in the United Provinces have behaved like very good boys. Nobody has been abducted there and no recovery has been effected there and I see no reason why our fair name should be tarnished like this. Sub-clause (2) says:

"It extends to the United Provinces, the Provinces of East Punjab and Delhi, the Patiala and East Punjab States Union and the United State of Rajasthan."

The rest of India is not touched, and rightly so. But then what applies to the rest of India must also apply to the United Provinces because there has been hardly any case of abduction in the United Provinces. I do not want the impression to go about that there has been a large number of abductions in the United Provinces and that therefore it has been necessary to rope in the United Provinces also for the purpose of this drastic executive legislation.

The Honourable Shri N. Gopalaswami Ayyangar: May I answer this particular point straightaway? I gather from the hon. Member's speech that he does not object to the United States of Rajasthan. From the statement from which he did draw some inferences, it will be found that about 270 people have been recovered from the Rajasthan Union.

Shri Jaspat Roy Kapoor: Not during the period 1st August 1948 to June, 1949 or up to now. Prior to that there were cases so far as the Rajasthan Union is concerned. But why bring in the U. P.?

The Honourable Shri N. Gopalaswami Ayyangar: We have not had any definite report that there are not more people to be recovered from Rajasthan. We have recovered about 270 so far. So far as the U. P. is concerned, there is no attempt to throw any dirt upon U. P. What really happens is this. Though there may not have been abductions from the U. P. itself, there are cases where abducted women, perhaps abducted elsewhere, have been taken into the U. P., and quite a considerable number too. It is necessary to recover them and the particular officers in that Province have got to have the powers to do the recovery.

Prof. Shibban Lal Saksena: Are there any cases?

Shri Jaspat Roy Kapoor: The Government report and the figures quoted therein do not support this contention.

The Honourable Shri N. Gopalaswami Ayyangar: I am afraid the hon. Member is laying too much stress on the literal wording of the statement from which he has read. What happens is that we do not have any special organisation in the U. P. but recoveries are made, and the recoveries made in U. P. go into the statistics of Delhi Province. That is why it is not separately shown.

Mr. Chairman: I will put the amendment to the House. The question is:

"That in sub-clause (2) of clause 1 of the Bill, the words 'the United Provinces' and the words 'and the United State of Rajasthan' be omitted."

The motion was negatived.

Mr. Chairman: Shrimati Durgabai.

Shri B. L. Sondhi: Are we going on still? We have got a committee meeting.

Mr. Chairman: If the House agrees we may finish this Bill.

Sardar Bhopinder Singh Man: Sir, I may clear a point in this connection. I have to move an amendment to the Preamble. It is a very substantial amendment and it will be a rather difficult and uphill task for me to build up my case, as the nerves of the hon. Members are strained. My speech may be a bit longish and it may be irksome for them. I may certainly take a very long time to dispel the erroneous impression that the hon. Mover has created and also to build up my case.

Mr. Chairman: Then the House will stand adjourned.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Monday, the 19th December, 1949.