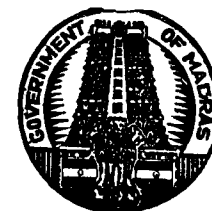


Issued—23-5-1951



397

**MADRAS LEGISLATIVE COUNCIL
DEBATES**

OFFICIAL REPORT

SATURDAY, 31st MARCH 1951

VOLUME IV—No. 13

**PRINTED BY THE SUPERINTENDENT
GOVERNMENT PRESS
MADRAS
1951**

PRICE, 4 annas

THE MADRAS LEGISLATIVE COUNCIL.

Saturday, the 31st March 1951.

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

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Expenditure on cultivation schemes.

* 201 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Agriculture be pleased to state with reference to answer to question No. 48 given on the 10th October 1950—

(a) what gross expenditure has been incurred on various schemes mentioned in reply to clause (b) during 1949–50 and the first six months of 1950–51;

(b) what have been the results as assessed so far during 1949–50 and 1950–51;

(c) whether the targets have been revised and if so, what they are;

(d) what is the amount of grant received from the Government of India in regard to schemes (1) to (8) listed during 1949–50 and what is the grant promised for 1950–51 in respect of the schemes approved by them;

(e) whether the portion of expenditure to be borne by the State is also met from the food procurement bonus earned by the State or out of general funds;

(f) whether the Government of India have approved the schemes for 1950–51 with or without modifications;

(g) whether the previous five-year plan was in operation only during 1947–48 and 1948–49 before it was superseded by the present three-year plan of intensive cultivation schemes;

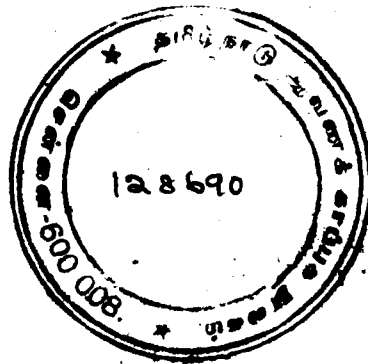
(h) why the previous five-year plan was abandoned or superseded;

(i) whether the results of the five-year plan were not considered satisfactory;

(j) whether the programme for 1950–51 as modified is now ready and if so, what it is; and

(k) whether the plan for 1951–52 has been formulated and if so, what it is?

THE HON. SRI A. B. SHETTY :—“(a) to (k) The answer is placed on the table of the House.”



CONTENTS

	PAGES
I Questions and Answers	767–778 856–874
II Government Bill—	
The Malabar Tenancy (Amendment) Bill, 1950 (L.A. Bill No. 30 of 1950) (as passed by the Assembly)—cont. ..	778–85

D
V211, 321 NS1
NS1.4.13-16

[31st March 1951]

JANAB ABDUL LATIF FAROOKHI :—“ As the question contains long answers, may I submit, Sir, that to enable hon. Members to study them, supplementaries can be had on some other day? ”

MR. CHAIRMAN :—“ We are meeting on the 16th again, when we shall have supplementaries on this question.”

Construction of bridges, etc., by the Highways Department.

* 202 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Public Works be pleased to state with reference to the answer given to starred question No. 36 on 9th October 1950—

(a) whether the Government are aware that in the case of bridges sanctioned in 1948 there has been inordinate delay in inviting tenders;

(b) what the procedure observed is in according sanction;

(c) whether the Government have at any time received any complaints that since the creation of the Highways Department not only there is inordinate delay in constructing bridges, culverts, etc., but also making of new roads and laxity even in the maintenance of existing roads in proper condition; and

(d) whether the Government have considered the retention or abolition of the Highways Department?

THE HON. SRI M. BHAKTAVATSALAM :—“ The information asked for is given in the paper placed on the table of the House.”

SRI R. SURYANARAYANA RAO :—“ With reference to clause (c) of the question, the Hon. the Minister's answer is ‘ yes ’. What steps have been taken by the Government to avoid the inordinate delay in the construction of bridges and culverts and also in the making of new roads and the maintenance of existing roads? ”

THE HON. SRI M. BHAKTAVATSALAM :—“ My answer is that there is no avoidable delay.”

SRI R. SURYANARAYANA RAO :—“ With reference to answer to clause (d) of my question, may I know, Sir, what the powers of control vested in the Presidents of District Boards over the District Engineering staff are, so far as the execution of District Board works is concerned? ”

THE HON. SRI M. BHAKTAVATSALAM :—“ As regards District Board works, disciplinary powers of control over the Engineering staff have been given to the District Board Presidents so that they can exercise more effective control.”

SRI R. SURYANARAYANA RAO :—“ May I know, Sir, whether the Presidents of District Boards are empowered to order the District Engineering staff to give priority to works which in the

31st March 1951]

view of the President concerned, require immediate attention; as against the orders of the Superintending Engineer of the Highways Department? ”

THE HON. SRI M. BHAKTAVATSALAM :—“ Even without the orders recently issued to the District Boards, the Presidents have got powers to tell the Engineering staff as to what should be done.”

SRI R. SURYANARAYANA RAO :—“ With reference to answers to clauses (a) and (b) of my question, may I know, Sir, how many Superintending Engineers (Bridges) are there in the State? ”

THE HON. SRI M. BHAKTAVATSALAM :—“ There has been only one Superintending Engineer in charge of Bridges. Even that one post has ceased to exist from to-day.”

SRI R. SURYANARAYANA RAO :—“ What are the arrangements that the Government have made in respect of the work which he was discharging till now in regard to preparation of estimates and plans for the construction of bridges? ”

THE HON. SRI M. BHAKTAVATSALAM :—“ Investigation of several of the projects has been practically completed and the rest of the work will be transferred to the respective circles.”

JANAB K. UPPI :—“ May I know whether the Presidents of District Boards have control over the roads which are under the Highways Department? ”

THE HON. SRI M. BHAKTAVATSALAM :—“ No, Sir.”

JANAB K. UPPI :—“ Then, who has control over the trunk roads? ”

THE HON. SRI M. BHAKTAVATSALAM :—“ It is the Government that have control.”

JANAB K. UPPI :—“ This Government or the Central Government? ”

THE HON. SRI M. BHAKTAVATSALAM :—“ Over the National Highways in this State, the Central Government exercise control through the agency of the Government of Madras.”

JANAB K. UPPI :—“ May I know whether the Highways Department causes more damage to the roads than repairing them? ”

THE HON. SRI M. BHAKTAVATSALAM :—“ It is entirely a wrong statement.”

JANAB K. UPPI :—“ May I tell the Hon. the Minister. . . ”

MR. CHAIRMAN :—“ No giving of information, please.”

JANAB K. UPPI :—“ Is the Hon. the Minister aware that the trunk road between Tellicherry and Mysore has been damaged? ”

[31st March 1951]

THE HON. SRI M. BHAKTAVATSALAM :—“ Considering the present cost of maintenance and the heavy traffic on trunk roads, I can assure the hon. Member that the Government are doing their best in the matter.”

JANAB K. UPPI :—“ May I know whether the Hon. the Minister is aware that the road which was quite all right before has been damaged by the Highways Department? ”

THE HON. SRI M. BHAKHAVATSALAM :—“ The damage, if any, is caused by the traffic and not by the department.”

SRI R. SURYANARAYANA RAO :—“ May I know what the technical difference is between a bridge and a culvert? ”

THE HON. SRI M. BHAKTAVATSALAM :—“ A culvert is a small affair while a bridge is a big thing.” (Laughter.)

Approach roads for railway stations.

* 203 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Local Administration be pleased to state with reference to the answers to question No. 75 given on 25th November 1950, whether the Government have taken steps to provide the necessary facilities in consultation with the local bodies, and if so, what they are?

THE HON. SRI K. CHANDRAMOULI :—“ Approach roads have since been formed for four railway stations. Eight flag stations and eight other stations do not require approach roads. In thirty-nine cases, action has been taken to have approach roads constructed at the cost of the local body concerned. In the remaining cases, action will be taken to construct the roads if, and when necessary allotment of funds is made by the local body concerned.”

SRI R. SURYANARAYANA RAO :—“ For the convenience of passengers to reach railway stations, will the Hon. the Minister ask the Presidents of District Boards, now that they have some power of supervision over the District Engineering staff, to give priority to the construction of roads connecting railway stations? ”

THE HON. SRI K. CHANDRAMOULI :—“ Whenever there is need for the formation of roads, the District Boards will give priority to such roads in their Five-year Plans. As and when finances are available, the work will be taken up.”

Utilization of the amount of Food Bonus.

* 204 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Food be pleased to state—

(a) how the amount of “ food bonus ” received from the Government of India has been utilized; and

(b) the amount spent (yearwar) in respect of each item and the balance available for utilization by the Government?

[31st March 1951].

THE HON. SRI J. L. P. ROCHE VICTORIA :—“ (a) The food procurement bonus fund of the Government of India could be spent only on purposes stipulated by them from time to time and there was no discretion allowed to the State Government regarding its utilization. The bonus fund earned since 1st November 1947 has accordingly been utilized to meet (i) the loss incurred by this Government on the distribution of foodgrains imported from extra-State sources within India during 1947-48; and (ii) the subsidy cost of Intensive Cultivation (or Grow More Food) Schemes of the State Government as approved by the Government of India, from the year 1949-50.

“ (b) The total estimated bonus fund earned from 1st November 1947 up to 31st December 1950 is Rs. 497.06 lakhs.

“ Amount adjusted in 1949-50 towards the loss incurred by this Government in the distribution of foodgrains imported from other States during 1947-48, item (i) in the answer to clause (a) above—Rs. 66.63 lakhs.

“ Subsidy cost of all Intensive Cultivation Schemes including Fisheries Schemes for 1949-50 pending verification and final adjustment by the Accountant-General, Madras—Rs. 200 lakhs.

“ Balance of bonus fund available for adjustment against the subsidy cost of all approved Intensive Cultivation Schemes for 1950-51—Rs. 230.43 lakhs.”

SRI R. SURYANARAYANA RAO :—“ May I know whether a cost of distribution of foodgrains can also be met from this bonus? ”

THE HON. SRI J. L. P. ROCHE VICTORIA :—“ Yes, Sir. This was allowed before November 1948. But afterwards owing to the adjustment made by the Government of India, such bonus is utilized only for intensive production schemes.”

SRI R. SURYANARAYANA RAO :—“ May I take it, then, that the cost of administration of food control is entirely borne by the State Government? ”

THE HON. SRI J. L. P. ROCHE VICTORIA :—“ Yes, Sir, except to the extent that we get subsidies from the Government of India.”

SRI R. SURYANARAYANA RAO :—“ Just now the Hon. the Minister for Food said that after 1948, the Government were not allowed to utilize the bonus for purposes of distribution of grains. May I know whether the cost of administration of rationing, etc., borne by the State or by the consumer or is met from the bonus? ”

[31st March 1951]

THE HON. SRI J. L. P. ROCHE VICTORIA :—" The Government of India are bearing a percentage of the expenses by way of subsidy. Up to the end of last year, we were getting subsidy. But now, it is restricted and the matter has not been finally decided."

Wynaad and Araku Valley Colonization schemes.

* 205 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Land Revenue be pleased to state—

(a) whether the Government have decided to continue the Wynaad Colonization Scheme and the Araku Valley Scheme;

(b) what the original conception of these schemes was and whether it has undergone any change;

(c) the amounts spent so far (yearwar) under the various heads, recurring and non-recurring;

(d) the number of families settled and whether they are landless or displaced persons; and

(e) whether the Government considered the proposal to issue separate annual reports on the two schemes furnishing all particulars of interest?

THE HON. SRI H. SITARAMA REDDI :—" (a) to (e) The answer * is placed on the table of the House."

SRI R. SURYANARAYANA RAO :—" With reference to the Hon. the Minister's answer to (c) given in the Appendix, may I know whether there is no income at all from the Araku Valley Colonization Scheme while there is some receipt from the Wynaad Colonization Scheme? "

THE HON. SRI H. SITARAMA REDDI :—" I refer the hon. Member to page 6 of the printed answer."

SRI R. SURYANARAYANA RAO :—" In view of the fact that the Government have decided that this Araku Valley Colonization Scheme is to be mainly concerned with hillmen, may I know whether there is any proposal to place it under the administrative control of the Special Officer who has been appointed? "

THE HON. SRI H. SITARAMA REDDI :—" Not, at present."

11-15 a.m. SRI R. SURYANARAYANA RAO :—" Sir, in view of the fact that this scheme is mainly intended, as it is being worked, for the benefit of the hillmen, will the Government consider the desirability of transferring the working and review of the scheme to the Tribal Committee constituted under the Statute? "

* Printed as Appendix III on pages 862-867 infra.

[31st March 1951]

THE HON. SRI H. SITARAMA REDDI :—" Originally the scheme was not intended for the benefit of the hillmen alone. We wanted to gain some experience for the further expansion of the colonization scheme in that area. As it has already been stated, it was found to be difficult and so we are confining it to the hillmen. But that is not final. If it is found necessary to extend it to others than hillmen, it may be necessary to retain it under the present control rather than hand it over to the agency suggested by the hon. Member, as handing over to that agency would mean shutting out people other than hillmen."

Dearness allowance for overtime work.

* 206 Q.—SRI P. R. K. SARMA: Will the Hon. the Minister for Land Revenue be pleased to state—

(a) whether dearness allowance for overtime work is being paid in the Government factories of the State according to the Factories Act;

(b) if so, whether it is a fact that the said dearness allowance for overtime work for several months has not been paid to the workers in the Government Press, Madras;

(c) whether any representations regarding the non-payment of dearness allowance for overtime work have been received from the workers or from the Government Press Workers' Union, Madras, and if so, what action the Government have taken or propose to take in the matter; and

(d) whether the irregularity, if any, is actionable under the Factories Act?

THE HON. SRI H. SITARAMA REDDI :—" (a) In some Government factories dearness allowance was not being taken into account in calculating overtime wages. Necessary instructions have been issued to ensure that overtime wages are calculated in accordance with the requirements of the Factories Act.

" (b) Yes, Sir, till recently.

" (c) The Government Press Workers' Union made a representation to the Superintendent of the Press. The Government have since issued instructions to take into account dearness and other allowances for purposes of calculating overtime wages with retrospective effect from 1st April 1949, the date on which the Factories Act, 1948, came into force.

" (d) Technically it is so, but the irregularity in this case was apparently due to ignorance and has been rectified."

National Cadet Corps.

* 207 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Education be pleased to give particulars of the National Cadet Corps (Senior and Junior) regarding its strength, the colleges or schools in which they have been organized, the

[31st March 1951]

number in each group, arrangements made for the training of the officer personnel, the conditions of recruitment to the corps, if any, and such other information including plans for its future expansion?

THE HON. SRI K. MADHAVA MENON :—" A statement * furnishing the information is laid on the table of the House."

SRI R. SURYANARAYANA RAO :—" May I know, Sir, why no senior division of the corps has been formed in any of the colleges on the West Coast? "

THE HON. SRI K. MADHAVA MENON :—" Sir, the facilities that are available in other places are not available there. There was a proposal to have an artillery corps in the Palghat Victoria College. The Government of India who were consulted in the matter suggested that we may consolidate what we have already begun before we proceed further."

SRI R. SURYANARAYANA RAO :—" Did Government at any time consider the question of forming a women's cadet corps, either senior or junior? "

THE HON. SRI K. MADHAVA MENON :—" Sir, that is a matter to be considered by the Government of India and under the National Cadet Corps, I don't think there is provision for women's cadet corps. If the Central Government were to ask our opinion in the matter we shall certainly agree."

SRI R. SURYANARAYANA RAO :—" In view of the fact that there is still deficiency in the number of officers both for the senior division and the junior division and in view of the fact that there may be need for expansion which may arise, have the Government taken steps to send sufficient number of people for officers' training? "

THE HON. SRI K. MADHAVA MENON :—" On page 5 of the statement placed on the table of the House my hon. Friend will find the answer, namely, arrangements are being made to select the additional officers required to make up the deficiency in the authorized strength and they will be sent up for training in a Regular Army Unit during the next summer vacation."

UNSTARRED QUESTIONS.

Grow More Food Campaign.

16 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Public Works be pleased to state—

(a) the number of tanks, major and minor, which were proposed for improvement during 1949-50 under the "Grow More Food" Campaign (districtwar);

[31st March 1951]

(b) whether tanks in zamin areas are also included in the list;

(c) whether there was or is a ban not to undertake improvements to tanks in Zamin areas in estates which have not yet been taken over under the Zamindari Abolition Act;

(d) whether, since 1942, any works have been undertaken and carried out in pursuance of the Madras Irrigation Acts of 1943 and 1945; and

(e) whether the Government will place on the table of the House a statement giving the progress made so far in the works for tank improvement?

A.—(a) Statement showing the number of tanks, major and minor, which were proposed for improvement during 1949-50 under the Tank Improvement Scheme (districtwar).

Name of the district.	Number of tanks.	
	Major.	Minor.
1 Nellore	1	86
2 Chittoor	1	7
3 North Arcot	..	25
4 South Arcot	46	4
5 Chingleput	..	16
6 Madurai	..	17
7 Tirunelveli	..	13
8 Ramanathapuram	..	57
9 Chittoor	1	..
10 Coimbatore	13	..
11 South Kanara	..	21
12 Cuddapah	..	4

(b) Yes.

(c) In October 1949, the Government issued instructions that, in view of the impending abolition of estates, no repairs to irrigation sources should thereafter be carried out at the cost of the proprietor, under the Madras Estates Land Act, 1908 or the Madras Irrigation Works (Repairs, Improvement and Construction) Act, 1943. Repairs or improvements to irrigation works in such estates which were considered essential from the Grow More Food point of view were being carried out under the Tank Improvement Scheme at the cost of the Government. No orders have been issued by the Government directing the postponement of repairs or improvements of irrigation sources in Zamindari areas altogether.

[31st March 1951]

(d) Yes. Four hundred and sixty-three works have been undertaken and carried out so far.

(e) * Statement showing particulars of Tank Improvement Works undertaken by the Food Production Engineering Staff working under the Commissioner of Food Production up to the end of February 1951.

Name of the district.	Number of works whose investigation has been completed and estimates prepared.	Number of sanctioned works.			Total	Number of works to be sanctioned.
		Completed.	In progress.	To be started.		
1 Srikakulam ..	294	65	6	168	239	55
2 Visakhapatnam ..	508	271	10	146	427	81
3 East Godavari ..	384	239	..	64	353	31
4 West Godavari ..	106	29	15	33	77	29
5 Krishna ..	165	117	..	24	141	24
6 Nellore ..	340	63	187	90	340	..
7 Guntur ..	45	..	19	4	23	22
8 Kurnool ..	13	..	9	1	10	3
9 Cuddapah ..	41	3	12	6	21	20
10 Chittoor ..	225	29	146	6	181	44
11 Chingleput ..	69	9	34	5	48	21
12 North Arcot ..	151	33	84	7	124	27
13 Salem ..	64	2	41	6	49	15
14 South Arcot ..	92	11	59	5	75	17
15 Tanjore ..	34	3	12	19	34	..
16 Madurai ..	203	36	50	35	121	82
17 Tiruchirappalli ..	48	..	16	32	48	..
18 Tirunelveli ..	107	19	40	39	98	9
19 Ramanathapuram ..	548	97	395	36	528	20
20 South Kanara ..	102	2	53	47	102	..
21 Bellary ..	9	..	6	3	9	..
22 Coimbatore ..	1	..	1	..	1	..
23 Anantapur ..	15	..	13	2	15	..

* The particulars include works attended to by the Minor Irrigation Staff in districts where the Food Production Staff is not working and flood damaged works carried out by the Food Production Staff in certain districts. Details of works under the control of the Chief Engineer (Irrigation) are not readily available.]

Irrigation tanks in Tiruttani and Puttur taluks.

17 Q.—SRI B. NARAYANASWAMI NAYUDU: Will the Hon. the Minister for Land Revenue be pleased to state—

(a) the number of irrigation tanks that had breached in the Zamindari area of Tiruttani and Puttur taluks;

(b) whether the villages, wherein these tanks have breached have been taken over by the Government under the Zamindari Abolition Act;

(c) whether the Tank Restoration Scheme, authorities or any other agency are at work to do the repairs to the tanks in the villages notified and taken possession of by the Government in the said taluks, and

(d) if so, which village tanks have been repaired, which village tanks are under consideration for repairs and which village tanks though breached are not taken up for consideration at all?

31st March 1951]

A.—(a) Fifty-two irrigation tanks had breached in 39 villages of the Zamindari area of the Tiruttani and Puttur taluks in the Chittoor district.

(b) Out of the 39 villages referred to in clause (a) above, 33 villages have been taken over under the Abolition Act and the remaining 6 villages have not yet been taken over.

(c) The staff attending to the Tank Improvement Scheme in the district is attending to the execution of repairs and improvements to irrigation works which are urgent from the Grow More Food point of view, lying in the villages taken over by the Government under the Abolition Act. The rest of the works are attended to by the normal Minor Irrigation staff.

(d) (1) The execution of repairs to the following tanks have been completed by the Food Production staff:—

1. Maharajapuram tank.
2. Appokondiah kandiga tank.
3. Santanagopalapuram Big tank.
4. Manoor tank; and
5. Guler Pathacheruvu.

(2) In respect of the following irrigation sources, the question of repairs is under consideration of the Food Production staff for execution during 1951-52:—

Puttur taluk.

1. Nidra supply channel and tank.
2. Pathiputtur tank.
3. Mangadu tank and supply channel.
4. Pudi tank.

Tiruttani taluk.

5. Manur tank.
6. Kolathur tank.
7. Veligaram tank.
8. Veligaram anicut.
9. Pallipet anicut.
10. Bunimangadu anicut; and
11. Bunimangadu Peddacheruvu.

(3) Out of the 52 breached irrigation tanks mentioned in clause (a) above, the execution of repairs to the following tanks has been taken up and the work is in progress:—

1. Peddacheruvu.
2. Chinnacheruvu.
3. Peddaramapuram tank.

[31st March 1951]

4. Chinnacheruvu of Singararajapuram.
5. Krishnaramapuram big tank; and
6. Karvetinagar tank.

The question of repairs to the rest of the tanks has not been taken up yet.

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

II.—GOVERNMENT BILL.

THE MALABAR TENANCY (AMENDMENT) BILL, 1950 (L.A. BILL NO. 30 OF 1950) (AS PASSED BY THE ASSEMBLY)—*cont.*

Ruling given by the Hon. the Chairman, on the amendment moved by Sri M. Narayana Menon to clause 10, on 2nd March 1951.

* This Bill seeks to amend certain sections of the Malabar Tenancy Act, 1929. Sub-sections 2 and 3 of Section 7 are two of the clauses sought to be amended. Sub-clause (1) of Section 7 is not to be amended and is left as it is. The hon. Member Sri Narayana Menon has given notice of an amendment to the said sub-clause (1). Objection is raised that that amendment is not in order. The objection is that, since this is an amending Bill, amendments to sections and clauses, not sought to be amended by the amending Bill, are beyond the scope of the Bill and should not be allowed—vide Rule 64 (1) of Council Rules. The general principle, applicable to such cases, is that the amendment should be within the scope of the Bill and also relevant to the question under discussion. The scope of the Bill is to be judged from the Preamble, the Titles, the clauses of the Bill and the Schedule. That means the Bill as a whole should be taken into consideration (vide Ruling of Sir Abdur Rahim in the Central Legislative Assembly Debates, 1937, Volume VI, page 2684). The question was also discussed in 1923 at the Conference of Presiding Officers, where the opinion was expressed and approved in subsequent conferences that admissibility of the amendment depend entirely on the scope of the Preamble. If the Preamble is a "closed" one, such as "Whereas it is expedient to amend certain sections of the . . . Act", amendments to sections of the principal Act, not included in the Bill, were outside the scope of the Bill and were not in order. If the Preamble were an "open" one, such as "Whereas it is expedient to amend the . . . Act," it might be difficult to avoid holding that the whole Act was open to amendments. The Conference also thought that inclusion in the Bill of an amendment to any particular section in the principal Act threw open the whole section to amendment. Applying this latter rule, the present amendment may appear to be in order. But, if the rule of 'closed' and 'open' Preamble is applied, the position becomes different. The Preamble of the present amending Bill runs as follows:— "Whereas it is necessary and expedient to define, declare, alter and amend, to the extent, in the manner and for the purposes hereinafter appearing, the law relating to landlord and tenant in the district of Malabar, etc." This Preamble does not refer even to sections, but says, the intention is to amend to the extent, in the manner and for the purposes hereinafter appearing, etc. These words are very significant and not only closes the door but also bars and locks the same. Section 7 (1) of the principal Act says, "Fair rent" shall be a share, ascertained under sub-sections 2, 3 and 4, of one-third of the gross produce. Sub-sections 2, 3 and 4 say, what that share should be for various purposes and the amending Bill seeks to alter the quantity of the said share. The amendment seeks to increase the fair rent itself by adding something in addition to that share. This certainly is beyond the scope of the amending Bill. I find that there cannot be a hard and fast rule in these matters and that each case has to be decided on its own merits in accordance with the principles laid down above. As regards the present case I have no doubt that the amendment is beyond the scope of the Bill and so rule it out of order. As the amendment has already been thrown out by the House, no further action is necessary. My attention is just now drawn to the fact that there is a change in the wording of the Preamble as it emerged from the Legislative Assembly. In my opinion this does not make any difference, for the words "for the purposes hereinafter appearing" are still there. The purpose is to amend only sub-clauses 2, 3 and 4 so as to reduce the fair rent. The proposed amendment has quite the opposite effect and affects a sub-clause which is not the purpose of this Bill to amend. The ruling holds.

[31st March 1951]

SRI R. SURYANARAYANA RAO:—“While bowing to your ruling, Sir, may I invite your attention to the Preamble to the Bill as passed by the Assembly? It reads: 'Whereas it is expedient further to amend the Malabar Tenancy Act, 1929, for the purposes hereinafter appearing and to make consequential amendments in certain other enactments; . . .' The Preamble that you read is that of the Bill which was originally introduced in the Assembly. The wording in the Bill before us is 'as passed by the Assembly'. This House is therefore seized of the Bill as passed by the Assembly.”

THE HON. SRI K. MADHAVA MENON:—“The wording you quoted is still there, Sir, and so it does not make any difference. The Preamble is: 'Whereas it is expedient further to amend the Malabar Tenancy Act, 1929, for the purposes hereinafter appearing and to make consequential amendments in certain other enactments . . .' and not in this Act, Sir.”

SRI R. SURYANARAYANA RAO:—“The word 'purpose' covers the purpose for which my hon. Friend Sri Narayana Menon moved an amendment. If it is for the purpose of amending particular sections of the Act we are ruled out but here it is for the purposes appearing hereinafter which deals with the question of the tenant . . .”

MR. CHAIRMAN:—“The Preamble is: 'Whereas it is expedient further to amend the Malabar Tenancy Act, 1929, for the purposes hereinafter appearing . . .' It is all right. It does not make any difference.”

* SRI R. SURYANARAYANA RAO:—“The purpose is to decide the share of the produce that the landlord should get or the tenant should get or others should get, whoever is entitled to it. The amendment of my hon. Friend seeks to make a certain change in the proportion of the rent or the produce which each person should get. For that, section 7 should be fully open for amendment because the purpose is to settle the portion to which each is entitled.”

* SRI M. NARAYANA MENON:—“Sir, the Preamble in the original Bill reads—

“Whereas it is necessary and expedient to define, declare, alter . . . that is one word.

“and amend, to the extent, in the manner, and for the purposes hereinafter appearing . . .”

I emphasize the words 'purposes hereinafter appearing'

“the law relating to landlord and tenant in the district of Malabar and certain neighbouring areas in the State of Madras . . .”

And, Sir, the provision of this Act will apply to other places also. So, Sir there are certain purposes for which the Act is to be amended. The purpose was referred to by my hon. Friend Sri Suryanarayana Rao. It is to reduce the rent payable by the

[Sri M. Narayana Menon] [31st March 1951]

tenant to the landlord. Therefore I say that an amendment can be made to section 7 (1). That is my submission. Another thing is, it is stated that no change is effected in section 7 (1) of the original Bill. But if you read section 7 (2) and (3) as amended"

THE HON. SRI K. MADHAVA MENON :—" On a point of order, Sir, if hon. Friends have any objection to your ruling it can be taken up on another occasion, Sir. The little time we have got"

MR. CHAIRMAN :—" The Hon. Minister need not be anxious. I want to hear them and if I am wrong I am prepared to correct myself."

SRI M. NARAYANA MENON :—" I am not questioning your ruling, Sir. That I cannot do. But I may point out that several such matters may come up hereafter. Therefore it will be useful to decide whether the amendment is proper or not. It is only for that purpose that I am making this submission. 'Fair rent shall be a share, ascertained under sub-sections (2), (3) and (4) of this section.' That is what is stated in section 7 (1). Sections 7 (2), (3) and (4) are amended by Government amendments in the new Bill. These amendments clearly affect the section as a whole and therefore section 7 (1) also. Though the wording of section 7 (1) is untouched, the substance is touched to a very great extent."

MR. CHAIRMAN :—" My point is this. So far as section 7 (1) is concerned, how fair rent is to be ascertained, is mentioned. Fair rent is to be ascertained as a share of 1/3rd of the gross produce. What that share is, we shall come to later on. The amendment of the hon. Member is to add something more than this share of 1/3, which is not the purpose of the Bill"

THE HON. SRI K. MADHAVA MENON :—" Sir, even as the hon. Member Sri Suryanarayana Rao wanted to define the purpose of the Bill according to the Preamble, as one of fixing the rent as between the landlord and the tenant, I must say that the purpose is never to increase the burden of the tenant."

MR. CHAIRMAN :—" If you take the purpose of the Bill it is to reduce the share from 1/5th of the 1/3rd to 1/6th of 1/3rd. The purpose of the Bill is to reduce the rent. The amendment of the hon. Member seeks to increase it."

SRI M. NARAYANA MENON :—" I am not increasing it, Sir. I am trying to make it fair as between the landlord and the tenant."

MR. CHAIRMAN :—" I do not think we need discuss it further."

31st March 1951]

SRI M. NARAYANA MENON :—" Sir, the rent which has 11-
to be paid by the tenant under sub-sections (2) and (3) of section 7 a.m
of the original Act, is sought to be reduced in clause 10 now. Since
they are reducing the rent in that manner, I want"

MR. CHAIRMAN :—" You want to add something more."

SRI M. NARAYANA MENON :—" Yes, Sir, I want that
this reduction may be compensated."

MR. CHAIRMAN :—" Let there be no further discussion. I
have given my ruling."

Clause 11.

MR. CHAIRMAN :—" The motion is—

'That clause 11 do stand part of the Bill.' "

* SRI M. NARAYANA MENON :—" Mr. Chairman, Sir, I
move—

'For the proposed section 8 (1) substitute the following :—

"(1) Except as provided in sub-sections (2) and (3) fair
rent in the case of dry land shall be 1/8th of the gross
produce of the crops raised on the lands or three times
the annual assessment payable in respect thereof which-
ever is higher."

Sir, in the original Act, fair rent is defined as, 'Fair rent in the case of dry lands shall be three times the assessment payable in respect thereof per annum'. In the proposed Government amendment, it is defined as, 'Except as provided in sub-sections (2) and (3), fair rent in the case of dry lands shall be three times the annual assessment payable in respect thereof'. What is allowed under this section to the landlord is only 3 times the annual assessment payable in respect of that particular land. Sometimes, this 'three times the annual assessment payable in respect thereof' is very much higher than the annual total benefit that the tenant gets from the land by cultivation. So, I want to provide two alternatives for fair rent, i.e., either 1/8th of the gross produce of the crops raised on the lands or three times the annual assessment payable in respect thereof whichever is higher. Instead of laying down that the fair rent payable to the landlord shall be three times the annual assessment payable in respect of that particular land, I propose in my amendment that fair rent shall be calculated on one-eighth of the gross produce of the crops raised on the lands or three times the annual assessment payable in respect thereof, whichever is higher. Whatever may be the purposes for which the proposals are made by the Government, I think that we are entitled to explain the sufficiency of fair rent to the landlord. Let me make it clear. If one-eighth of the gross

[Sri M. Narayana Menon] [31st March 1951]

produce is smaller than 3 times the annual assessment, the landlord gets the latter. If one-eighth of the gross produce is higher than 3 times the annual assessment, the landlord gets the former."

JANAB ABDUL LATIF FAROOKHI:—"Sir, I second the amendment."

MR. CHAIRMAN:—"Motion moved—"

For the proposed section 8 (1) substitute the following:—

"(1) Except as provided in sub-sections (2) and (3) fair rent in the case of dry land shall be 1/8th of the gross produce of the crops raised on the lands or three times the annual assessment payable in respect thereof whichever is higher." "

THE HON. SRI K. MADHAVA MENON:—"Sir, I oppose the amendment for the simple reason that it increases the burden of the tenant more than what is provided in the original Act which says 'Fair rent in the case of dry lands shall be three times the assessment payable in respect thereof per annum'. Sir, in the case of pepper and other commercial crops, like groundnut, we thought it fair that the landlord should get a higher share because of the existing high prices. In the case of other crops, we are not making any change. Mr. Narayana Menon has so much love for the tenants . . ."

SRI M. NARAYANA MENON:—"Not only for tenants, but for fairness also."

THE HON. SRI K. MADHAVA MENON:—"Sir, whatever that may be, he has been proclaiming here his love for tenants also."

SRI M. NARAYANA MENON:—"Sometimes." (Laughter.)

THE HON. SRI K. MADHAVA MENON:—"Whether it is for the purpose of publicity or . . ."

MR. CHAIRMAN:—"I don't think that the Hon. Minister is right in saying 'publicity'."

THE HON. SRI K. MADHAVA MENON:—"With due deference to you, Sir, by publicity I mean the publicity that the press gives. But for that, most of the speakers would not have been here. It is a fact, and . . ."

SRI M. NARAYANA MENON:—"If that is the idea, the Hon. Minister need not speak at all."

THE HON. SRI K. MADHAVA MENON:—"Sir, through the press only we have to explain to the electorate everything that we have been doing here. I meant nothing more."

"Sir, this amendment goes against the interests of the tenant and increases his burden more than what the existing Act provides. So, I oppose the amendment."

31st March 1951]

MR. CHAIRMAN:—"The question is—"

For the proposed section 8 (1) substitute the following:—

"(1) Except as provided in sub-sections (2) and (3) fair rent in the case of dry land shall be 1/8th of the gross produce of the crops raised on the lands or three times the annual assessment payable in respect thereof whichever is higher." "

The amendment was lost.

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

In new section 8, in sub-section (1), add the following at the end:—

"or where the lands have not been assessed, three times the annual assessment payable in respect of similar lands of the same extent in the neighbourhood."

Sir, subsequent to the discussion in the Assembly, I have found that there are large numbers of cases in Malabar where lands have not been assessed. So, we have to make the provision that where the lands have not been assessed, the fair rent will be three times the annual assessment."

MR. CHAIRMAN:—"The question is—"

In new section 8, in sub-section (1), add the following at the end:—

"or where the lands have not been assessed, three times the annual assessment payable in respect of similar lands of the same extent in the neighbourhood."

The motion was carried.

JANAB K. UPPI:—"Sir, I move—"

In the proposed section 8 (2) (a) for the word "eleventh", substitute the word "seventh", omit the word "fifth" and substitute the words "one-fifth of the" for the words "the entire".

Sir, when land is leased out for pepper cultivation, there won't be any yield for a number of years and when the pepper crop begins to yield, it will be shared by the landlord and the tenant in the proportion mentioned in the lease deed, and generally the share of the landlord will be one-fifth or one-fourth or one-third. Now, according to the amending Bill, if a piece of land is leased out to a tenant, the landlord will not get anything for the first 10 years and for every four years after the eleventh year. Sir, pepper is an erratic produce. For the first 3 to 5 years, there may not be any crop and the tenant who might have invested large sums of money, will not get anything. But, in the eleventh year, there may be a bumper crop and according to the amending Bill, the entire crop will become the landlord's share. My submission is that, when there is a poor crop or no crop in a year, both the landlord and the tenant must have a share. In some parts of Malabar, there are small areas where the landlord or the tenant takes the entire crop once in 3 years or 4 years.

[Janab K. Uppl] [31st March 1951]

In some parts of Malabar where the produce is auctioned, the landlord, the tenant and some merchant bidders will bid either in kind or in cash and the purchase value will be divided between the landlord and the tenant according to the terms of the lease. So, Sir, the provision that in every fifth year the crop will be taken by the landlord will work very hard on the tenant and sometimes on the landlord also. I want to maintain the *status quo*."

11-45 a.m. * SRI R. SURYANARAYANA RAO :—" Sir, I rise to second the amendment moved by Mr. Uppl Sahib. There are two points involved in his amendment. The first is whether, after planting pepper, there is yield till the seventh year. I understand from those who grow pepper vines that the pepper crop will begin to yield only from the seventh year. According to the amendment introduced by the Government, it is taken for granted that till the eleventh year there won't be any crop. Is it correct for the Department of Agriculture or for anybody to say that the tenant and the landlord should wait till the eleventh year for the crop when the crop is really coming up in the seventh year? Is it the contention of the Hon. the Minister for Law that only in the eleventh year the whole produce should be taken by one party and till then during the period between the seventh and eleventh year, the tenant should have unrestricted enjoyment?

" Therefore, Sir, I am informed even by my hon. Friend Mr. Manjappa Hegde, who is himself a big landlord in South Kanara,—(One hon. Member: 'Malabar') there is not much difference between South Kanara and Malabar—that at the end of the sixth or the seventh year, the pepper vine yields crop. So, it is fair that we accept the amendment of my hon. Friend, Mr. Uppl Sahib.

" The second point is that the Hon. Minister, Mr. Madhava Menon, has suggested in his amendment that only after the eleventh year, every fifth year, the landlord shall be entitled to take the entire produce and during that year, the landlord is also bound to pay land revenue and cesses. The Section as it stands, means continuously till the fifth year after the eleventh year, that is, till the sixteenth year, the landlord cannot have any claim on the produce, and during that year, he gets the full produce. That means, that during the previous four years, the tenant is allowed to enjoy the full crop. My contention, Sir, is that it is neither fair to the landlord nor to the tenant that the tenant should be allowed to reap the crop continuously for four years, some of them may happen to be lean years, and the landlord should have the benefit of a good crop in the fifth year. Therefore, Sir, I suggest, as my hon. Friend Mr. Uppl Sahib has suggested, that the crop shall be divided and that the entire produce should be divided every year. I also go to the other extreme in saying that the assessment and cesses should be paid by the landlord every year. My consequential amendment says

[Sri R. Suryanarayana Rao] 31st March 1951]

that the landlord shall get his share of the pepper produce every year and he shall pay the assessment and cesses, so that if in one year, the pepper fetches a high price, the beneficiaries will be both the landlord and tenant. Sir, in this connexion, it is well to remind ourselves that the price of pepper is controlled by an international market. It is not like our paddy or cholam or any other cereal. Pepper prices rise or fall according to the demand in the international market. If in any year, the prices are high, they should be shared both by the landlord and the tenant and if in any year the prices go down, they should bear the loss equally. This is the only principle on which I support the amendment of my hon. Friend, Mr. Uppl Sahib. My second amendment is that the landlord alone should be made to pay the assessment and cesses. To that extent, I do not yield to the position in respect of wet lands that the tenant should pay half the assessment. I want that both the landlord and the tenant should share the benefits of the prices which the international markets may dictate in regard to pepper. Sir, my amendment to clause 11 deals with that."

MR. CHAIRMAN :—" May I take it that the hon. Member is moving his amendment? "

SRI R. SURYANARAYANA RAO :—" Yes, Sir. My amendment is the same as the amendment of my hon. Friend, Mr. Uppl Sahib. The other amendments are consequential."

MR. CHAIRMAN :—" The present discussion is on the amendment of Mr. Uppl Sahib, namely—

" In the proposed section 8 (2) (a) for the word " eleventh " substitute the word " seventh ", omit the word " fifth " and substitute the words " one-fifth of the " for the words " the entire " "

SRI R. SURYANARAYANA RAO :—" Then, Sir, I reserve the right to move my amendments separately."

THE HON. SRI K. MADHAVA MENON :—" The result of Mr. Uppl Sahib's amendment will affect amendment No. 5 of Mr. Suryanarayana Rao."

MR. CHAIRMAN :—" We shall see what happens to the amendment."

SRI R. SURYANARAYANA RAO :—" I support the amendment of my hon. Friend, Mr. Uppl Sahib."

* SRI M. NARAYANA MENON :—" I also support the amendment, Sir. If fairness should have its way with regard to both tenants and landlords, then, the amendment proposed by Mr. Uppl Sahib must certainly prevail and must certainly be accepted by this Council. I want, whatever may be the yield from a pepper garden, both the landlord and tenant should enjoy the produce, whatever may be the proportion, without the operation of any other clause. What I say is this. The pepper vine yields

[Sri M. Narayana Menon] [31st March 1951]

from the seventh year. Of this yield, the landlord may get one-fifth or one-sixth and the tenant may get the rest. I say that there must be fair distribution of the income from the pepper garden year by year. Another thing is that pepper is subject to variation in prices. Now, there is a war boom. Therefore, the pepper has risen in value. Suppose on account of the influence of the U.N.O. and other organizations, war does not break out, only then the price of pepper will go down. If the price of pepper goes down, then the landlord will not get even a fraction of what the tenant gets to-day. To be fair, as proposed in the amendment of Mr. Uppi Sahib, every year the yield should be divided and the landlord also should get his share of the yield. Therefore, Sir, I support the amendment."

THE HON. SRI K. MADHAVA MENON :—"Sir, I oppose the amendment proposed by Mr. Uppi Sahib. It is really surprising because we discussed it at length in the Select Committee and came to a unanimous conclusion on this point. It was first proposed that the landlord's first share shall be at the twelfth year and every sixth year thereafter. The matter was considered in the Select Committee and after various discussions, a compromise was arrived at. Hon. Members can go through the proceedings of the Select Committee. We have said already that pepper is an uncertain crop; one year, it may give a very good crop. Another year, there may not be any yield. Therefore, after discussions in the Select Committee, '12 years' was reduced to '11 years' and '6 years' was reduced to '5 years'. In this respect, we were more or less following the recommendations of the Malabar Tenancy Committee, that is, Kuttikrishna Menon's Committee. That Committee made a uniform recommendation that in regard to pepper, we must at least restore the original principle of the landlord getting the yield in the twelfth year and every sixth year thereafter, because of the vagaries of the crop. Sir, I only want to read one sentence from the Kutti Krishna Menon's Committee's Report. 'The vines begin to yield on the average in the seventh year and the tenant may take the entire produce for the first four years after it begins to yield'; that is, he will take the yield for the seventh, eighth, ninth and tenth years, so that till the seventh year, he does not get anything at all. He only tends and grows the crop. From the seventh year, it begins to yield and the tenant is to take the yield for the seventh, eighth, ninth and tenth years. The yield for the eleventh year is to go to the landlord. So, Sir, the vines begin to yield on an average in the seventh year; from the seventh to tenth year, both inclusive, that is, for four years, the tenant gets the yield and the landlord takes the entire produce for the eleventh year and every fifth year thereafter. I know that the price of pepper has now shot up. I also know the time when pepper price went down to such an extent that the average income from a pepper garden, particularly in Malabar, was so low that the tenants began to convert their pepper gardens into coffee plantations. Of course, during the last three years, the

[31st March 1951] [Sri K. Madhava Menon]

price of pepper has gone up. I know, Sir, what the tenant feels in this matter. After all, the pepper vine will last only for about twenty-five years. Ordinarily, for the first six or seven years, he will not get any crop at all and the first crop will only be a nominal crop. So, we have provided that every fifth year, after the eleventh year, the landlord should get the entire produce. This is a matter which was agreed to in the Select Committee. So, I was rather surprised when this point was again raised and this amendment was suggested. Therefore, Sir, I cannot accept the amendment."

MR. CHAIRMAN :—"The question is—

'In the proposed section 8 (2) (a) for the word "eleventh" substitute the word "seventh", omit the word "fifth" and substitute the words "one-fifth of the" for the words "the entire".'

The amendment was lost.

* SRI R. SURYANARAYANA RAO :—"Sir, the amendments which I seek to move are as follows :—

'In clause 11, in section 8 (2) (a), omit the word "fifth" for the word "entire", substitute the word "one-fifth" and omit the words "for the year for which it is payable".'

'In the proposed section 8 (2) (a), omit the proviso.

'In the proposed section 8 (2) (b), substitute the word "tenant" for the word "landlord"; and omit the words "the produce in the years in which he has a right to it under clause (a)".'

'In the proposed section 8 (2) (c), omit the words "for the year for which rent is payable under clause (a)" and the words "and the assessment and local cesses due in respect of the land for other years shall be paid by the tenant".'

"Sir, I have explained already my first amendment, that is, the landlord should take every year one-fifth of the yield. The other amendments are consequential amendments. As I said, Sir, the liability for the payment of assessment and cesses must be on the landlord every year. My hon. Friend, the Minister for Law, quoted Kuttikrishna Menon Committee's Report. I know that Mr. Kuttikrishna Menon was a colleague of the Hon. Minister for Law and that Mr. Narayana Menon also was a member of that Committee. But, Sir, it is not fair to quote the Committee when it suits the Government and leave it out of account when it does not suit them. I ask, has this whole Bill been based on Kuttikrishna Menon Committee's Report? Sir, Government sometimes take from the Committee's report what is convenient. On the other hand, a number of recommendations which have been submitted by the Committee have been summarily rejected. Some of the recommendations, we have been told, are impracticable. But, let us consider the question

[Sri R. Suryanarayana Rao] [31st March 1951]

dispassionately without reference to the Committee's report. Let us take a family which has a few acres of land which is not fit for the cultivation of any other crop except pepper.

12 noon.

"Nothing else can be grown. How is the family to maintain itself out of the income derived from the land? Should the family starve for four years and wait for the 5th year to get its income from the land? It is a very curious idea of equity and justice. My Hon. Friend Mr. Madhava Menon also said that the question was discussed at great length in the Select Committee. May I invite his attention to the proceedings of the Select Committee where Mr. Uppi Sahib, who is himself a landlord and on whose lands pepper vines are grown, has told the Committee that the rent is being collected annually? There may be areas where rents are collected once in six years or not collected at all. But in the area from which Mr. Uppi Sahib comes and where pepper vines are grown abundantly he has stated that he himself is collecting the rent annually. No one system seems to prevail throughout Malabar. It seems to be different in different areas. Now we are trying to systematise the whole thing—the quantum of rent and the time and method of payment of rent. Let us face the facts as they are. As the Hon. Minister Mr. Madhava Menon knows, my predilections are in favour of the tenant. But how is the tenant affected by being asked to pay 1/5th of the produce every year? By agreeing to my suggestion you will only be assisting the small landowners who depend on the income from their lands for their maintenance. It does not affect the tenant in any way. It helps the tenant to share the prosperity in good years and the loss in bad years with the landowner. I have gone a step further and said that the landlord should pay the assessment and the cesses. Instead of the landlord paying the assessment every fifth year when he gets the crop, I have said that he should pay it every year and be content with 1/5th of the crop every year. This arrangement is fair and equitable to the landlord and the tenant and if at all it is a little unfair to the landlord."

SRI M. NARAYANA MENON :—"I second the amendment. The Hon. Minister has quoted the report of the Kuttikrishna Menon Committee against me because I am a signatory to that report and I have also quoted it against the Hon. Minister, often, as he has also been a signatory to that report. In several matters where the recommendation of that Committee is fair to the janmi, the Hon. Minister does not accept it, but where the recommendation is unfavourable to the janmi, the Hon. Minister is pleased to accept it and quote it against me. So far as this matter is concerned, in North Malabar there are of course two systems of payment, payment annually and surrendering the entire crop in the fifth year. Though these two systems may not be conflicting with each other; they are different. If a proper method of collection is to be decided upon, we must choose the better one and for that, reason and fairness must prevail. Both the landlord and the tenant must be enabled to live. It may be that in the 11th year the landlord may

31st March 1951] [Sri M. Narayana Menon]

get a good crop and revel in plenty of money and food. But from the 7th year to the 11th year, why should he starve and why should the tenant be revelling in food and money? Let the rent be paid annually to the landlord so that he also may be enabled to live like the tenant. The reason for this legislation is a sort of bias in favour of the tenants and against the landlords."

JANAB K. UPPI :—"Sir, the Hon. Minister has taken away the right to collect the rent from the 7th year and said that the rent should be collected from the 11th year. Mr. Suryanarayana Rao has suggested that the rent should be paid every year after the 11th year at the rate of 1/5 of the produce. I ask the hon. Members who are not from Malabar whether it is fair to ask the landlord to wait for eleven years looking at his garden and waiting for his rent? Does this kind of arrangement prevail in any other part of the world? If a piece of land is leased out, the landlord has to wait for eleven long years for his rent and then he will get his rent once in five or six years. There will be a lot of heart-burning and it will end in many dangerous things. Pepper is an erratic crop. Sometimes the crop will be so little that it will not be worthwhile collecting it. Suppose, in the 11th year, when it is the turn of the landlord to take the crop, there is a bumper crop, because the vine will be fully grown. Why should this bumper crop go out of the hands of the tenant who has been cultivating it all these years? At present the price of pepper is more than Rs. 3,000 a candy and there will be much heart-burning for the tenant. On the other hand if he can take 4/5 of it, he will be very glad to give the remaining 1/5 to the landlord. Therefore I appeal to the Government to accept the amendment."

THE HON. SRI K. MADHAVA MENON :—"Sir, I want the House to understand the system in Malabar with regard to pepper. There are both the systems. In the whole of Chirakkal taluk which is a pepper growing area there is the system of collecting rent once in five years. In other places, there is the annual sharing system and also the system of collecting once in five years. I want to explain why the Select Committee decided to adopt this system. The original proposal was that rent should be collected in the 12th year and thereafter every 6th year. Janab Uppi Sahib wanted us to imagine how the landlord can wait for eleven long years before he got anything out of his land. He sees the crop before him but he does not get anything out of it. Should we not also imagine how the tenant would have to wait for seven long years tending the crop, all the time spending money from out of his own pocket and getting nothing in return? If the tenant has to wait for seven long years before getting anything out of the land, why not the landlord wait for four short years? For four years let the tenant take the crop."

"Apart from that, I want to tell the House that the landlords' representative in the Assembly is Sri Kunhi Kammaran Nambiyar."

[Sri K. Madhava Menon] [31st March 1951]

It is in his taluk that most of the pepper is grown. What was the amendment that he moved in the Select Committee? He suggested the substitution of the 5th year for the 6th year and I accepted the amendment. Mr. Narayana Menon has become more royal than the king and I may tell him that the landlords' representative wanted only the substitution of the 5th year for the 6th year and we have accepted it in the Select Committee. Janab Uppi Sahib wanted that the rent should be paid every year. I must tell the House that we agreed to this payment every five years for this reason. The whole of the agrarian trouble in Malabar is confined to North Malabar and the entire communist activity is confined to the taluks of Chirakkal and Kottayam. The whole trouble arises out of the sharing of the pepper crop. The landlord is strong and the tenant is weak. The landlord is sitting somewhere and he sends his son or agent to collect the rent. The landlord's 1/5 will never be 1/5. When the landlord has taken his share, the tenant would not have even 1/10 of the produce. After waiting for seven years the tenant will get nothing. The Committee wanted to avoid this difficulty of sharing and thought that it would be better if the landlord was allowed to take one full year's produce and the tenant the produce of the next four years. This practice is not new in Malabar. It is already in existence in a good portion of the pepper gardens in Malabar. The Select Committee went into the whole matter and that was the reason why they decided upon this system. I only quoted the Kuttikrishna Menon Committee's report to explain the position. Mr. Suryanarayana Rao asked why the landlord should wait for five years. I thought I could explain the thing better by reading the report and not as a matter of authority. I oppose the amendment, Sir."

MR. CHAIRMAN:—"I shall put Sri Suryanarayana Rao's amendments Nos. 5, 6, 7 and 8 to the vote of the House."

SRI R. SURYANARAYANA RAO:—"They may be put separately, Sir. Amendment No. 5 may be put first. I may not press the other amendments."

MR. CHAIRMAN:—"The question is—

'In clause 11, in section 8 (2), (a), omit the word "fifth", for the word "entire", substitute the word "one-fifth" and omit the words "for the year for which it is payable."'

The amendment was put to the House and declared lost.

A poll was demanded and the House divided thus:

Ayes.

- | | |
|--------------------------------------|----------------------------------|
| 1 Janab Abdul Latif Farookhi. | 5 Sri R. Suryanarayana Rao. |
| 2 Sri M. D. T. Kumaraswami Mudaliar. | 6 Dr. Syed Tajuddin. |
| 3 " B. Narayanaswami Nayudu. | 7 Sri D. Manjappa Hegde. |
| 4 " A. Gopalakrishnayya. | 8 Janab K. Uppi. |
| | 9 Janab V. Hamid Sultan Maricar. |

31st March 1951]

Noes.

- | | |
|----------------------------------|---|
| 1 The Hon. Sri K. Madhava Menon. | 9 Sri S. A. S. Rm. Ramanatham Chettiar. |
| 2 " C. Perumalsami Reddi. | 10 " M. K. Sundararama Iyer. |
| 3 " J. L. P. Roche Viotoria. | 11 " R. Ramakrishna Nayudu. |
| 4 Sri K. Venktasami Nayudu. | 12 " S. Jayaram Reddiar. |
| 5 " S. B. Adityan. | 13 Mrs. M. Hensman. |
| 6 " S. K. Satagopa Mudaliar. | 14 Sri H. M. Jagannatham. |
| 7 " N. Venkatachalamaji. | 15 " N. Ranga Reddi. |
| 8 Dr. P. V. Cheriyan. | 16 " V. Nagappa Chettiar. |
| | 17 " Mr. A. S. T. F. Rodriguez. |

Neutral.

- | | |
|--------------------------|-----------------------------------|
| 1 Sri M. Narayana Menon: | 2 Dr. A. Lakshmanaswami Mudaliar. |
|--------------------------|-----------------------------------|

Ayes 9; Noes 17; Neutral 2.

The amendment was lost.

THE HON. SRI K. MADHAVA MENON:—"Sir, I move the following amendments:—

'In new section 8, in sub-section (3), omit the brackets and letter " (a) " at the commencement and the whole of clause (b); and add the following as sub-section (4):—

"(4) If any dispute arises as to the amount of fair rent payable under the foregoing provisions in respect of any dry land, either the landlord or the tenant may apply to the Rent Settlement Authority for the determination of such amount, and on such application being made, the amount shall be determined by the Rent Settlement Authority in such manner as may be prescribed."

"The first part of the amendment is only a verbal one. In regard to the addition of a new sub-section, it has not been provided in the Bill and we have now found out the mistake and so we are providing for it now."

The amendments were put and carried.

* SRI R. SURYANARAYANA RAO:—"Sir, I move the following amendment:—

'In the proposal section 8 (3) for the words "or such other crop as may be notified as a commercial crop for the purposes of this section in the Fort St. George Gazette by the State Government," substitute the words "or any other commercial crop notified under the Commercial Crops Markets Act".'

"At the Select Committee stage, both Mr. Karanth and myself moved this amendment and it was also accepted. The amendment which was accepted by the Select Committee is not 'or such other crop as may be notified as commercial crop for the purposes of this section, etc.' On the other hand, it should have been 'notified as commercial crop under the Commercial Crops Markets Act'. Therefore, Sir, I only want to restore what was agreed to in the Select Committee unanimously and I think it was also accepted by the Government. The loophole in the Government amendment is, they may declare anything as a commercial crop if it suits the

[Sri R. Suryanarayana Rao] [31st March 1951]

purposes of this section of the Act. Whereas, our intention is that the Commercial Crops Markets Act should be the guide and not the executive action of the Government to declare any crop as commercial crop for the purposes of this Act. Therefore, I am moving the amendment, Sir, for the acceptance of the House."

JANAB ABDUL LATIF FAROOKHI :—" I second it, Sir."

THE HON. SRI K. MADHAVA MENON :—" Sir, I oppose the amendment. Under the various sections of the Act, rent has been fixed. Coconut and arecanut and other fruit-bearing trees are not included for purposes of rent under the Commercial Crops Markets Act, though there may be other crops which are included in it. Secondly, coconut has been declared a commercial crop under the Commercial Crops Markets Act, but the method of calculating the rent is different. So, unless a crop is notified by Government, the tenant does not know whether he has got to pay rent for a particular crop under the Act; otherwise he will be made to pay rent by an amendment of the nature proposed by the hon. Member, which is not the purpose of the Act. Therefore, I oppose the amendment."

The amendment was put and lost.

* SRI M. NARAYANA MENON :—" Sir, I move—

In the proposed section 8 (3) (a), in the seventh line, for the word "or" after the words "part of the land in that year" substitute the words "together with."

In section 8 (3) (a), for the words "as such land whichever is higher" at the end, substitute the words "as the land is higher" at the end, substitute the words "as the land any other commercial crop".

"The Hon. Minister stated with reference to section 8 (3) that it has been introduced to benefit certain cultivators of commercial crops, especially groundnut, but if the section is read carefully, it will be clear that it does not give practically any benefit to the groundnut cultivator or the commercial crop cultivator. According to the proposed sub-section if on any land or part of the land, groundnut or other commercial crop is cultivated, let us see what the landlord gets. He must either get one-eighth of the groundnut produce in the whole or part of the land or an amount equal to three times the highest assessment payable in the district in respect of dry land of the same extent as such land. I would like just to illustrate what it means. Suppose, there are 10 acres of land fit for groundnut cultivation and the landlord leases it out to the tenant and suppose the tenant cultivates only a part of that land, say 2 acres, with groundnut. How is the fair rent to be ascertained? That is a matter which has to be considered. What this section says, is, calculate the gross amount of groundnut produce, then give him only one-eighth on the two acres, or calculate on the 10 acres at three times the highest assessment payable in the district in respect of dry land of the same extent as such land. That is, 10 acres into three times the highest assessment, whichever is higher may be

31st March 1951] [Sri M. Narayana Menon]

paid. If the tenant cultivates only half an acre of that land, for all the 10 acres it will be only 10 into 3 times the assessment. On the other hand, if the tenant cultivates the whole of the 10 acres, then of course, it will be one-eighth of the entire gross produce, so that the tenant can easily deny any benefit to the landlord by cultivating a small portion of the land with groundnut or any other commercial crop and the rest with any other crop, which may give a better yield according to him. In that case, the landlord will not get any benefit because he will get only one-eighth of the produce on the 2 acres of land. Certainly, one-eighth of the crop raised in two acres will be higher than three times the assessment payable in the district. Therefore, every year the landlord is sure to be put at a disadvantage. I do not know whether the intention of the Government is this; but that is what is clear from the section as it reads. I have therefore proposed an amendment to make the purpose clear. I will illustrate what I propose in my amendment. Out of the 10 acres of land, suppose the tenant has cultivated groundnut or other commercial crop in only 2 acres, then in respect of those 2 acres the tenant gives the landlord one-eighth of the gross produce and for the rest of the 8 acres three times the highest assessment. According to my amendment, for the entire area, the landlord will get some rent. In the case of non-cultivated land, it will be three times the highest assessment and in the case of the cultivated portion one-eighth of the gross produce.

"I have moved both my amendments together so that the Hon. Minister may reply to them together. I am now speaking on my amendment No. 20 and I will come to the next one later. I am now going to explain the scope of the two amendments with reference to section 8 (3) (a)."

MR. CHAIRMAN :—" Is the hon. Member moving both the amendments together? "

* SRI M. NARAYANA MENON :—" Yes, Sir, because they are part of the same section and they are also connected with each other.

"So, Sir, I say, with reference to my amendment No. 20, that 12-30 p.m. in the proposed section 8 (3) (a), in the seventh line for the word 'or' after the words 'part of the land in that year', substitute the words 'together with'. That is, the word 'or' must go and the words 'together with' must be put in its place. Because what is paid by the tenant to the landlord is only one-eighth of the gross produce of groundnut or other commercial crop produced on the cultivated portion of the land or only three times the highest assessment payable in respect of the dry land in the district. Now, what I want is that both the one-eighth of the gross produce and the three times the assessment should be paid to the landlord.

"Now, with regard to my amendment No. 21, I want, in section 8 (3) (d) for the words 'as such land whichever is higher' at the end of that clause the words 'as the land remaining uncultivated for that year with groundnut or with any other commercial crop' should be substituted. That is, I say, give the landlord one-eighth

[Sri M. Narayana Menon] [31st March 1951]

of the gross produce of the cultivated land under commercial crop or an amount equal to three times the assessment on the commercial crop land in the district. For, I do not understand why the landlord should be put in the hands of the tenant. For a tenant may this year cultivate only 2 acres, out of 10 acres for groundnut leaving the rest of the land for garden crop. So practically the landlord will get only what the tenant gives for the groundnut crop."

JANAB ABDUL LATIF FAROOKHI:—"I second the amendments."

MR. CHAIRMAN:—"Strange bed fellows!"

THE HON. SRI K. MADHAVA MENON:—"Sir, I oppose the amendments of my hon. Friend, for the simple reason that, as he said, they are simple. For, Sir, the Joint Select Committee decided that the fair rent for dry land should be raised to one-eighth of the gross groundnut or other commercial crop produce of the land or part of the land for that year, or an amount equal to three times the highest assessment payable in respect of any dry land in the district whichever is higher. But my friend, Mr. Narayana Menon wants both. That is, he wants one-third gross produce under groundnut crop and three times the assessment on dry land."

SRI M. NARAYANA MENON:—"That is not what I have stated hitherto."

THE HON. SRI K. MADHAVA MENON:—"Then, Sir, he must have said something wrongly."

SRI M. NARAYANA MENON:—"Read what my amendment is."

THE HON. SRI K. MADHAVA MENON:—"Yes, I have read it and I have tried to understand him. I shall now read the clause as per my hon. Friend's amendment. The clause will read thus—

"In any year in which groundnut or such other crop as may be notified as commercial crop for the purposes of this section in the *Fort St. George Gazette* by the State Government, is cultivated on any land or part of any land, fair rent for the whole of that land for that year shall be one-eighth of the gross produce of groundnut or other commercial crop raised on the land or part of the land, in that year, together with an amount equal to three times the highest assessment payable in the district in respect of dry land of the same extent as such land, whichever is higher."

"So, Sir, my friend wants both."

SRI R. SURYANARAYANA RAO:—"That is on the uncultivated land."

THE HON. SRI K. MADHAVA MENON:—"No, that is in the second amendment. I am now speaking about his first amendment. Then, with regard to his second amendment, he wants both, that is, for the portion cultivated, one-eighth of the gross produce and for the portion uncultivated, three times the assessment. Sir, both the amendments are objectionable, and I oppose them."

[31st March 1951]

MR. CHAIRMAN:—"The question is—

'In the proposed section 8 (3) (a), in the seventh line, for the word "or" after the words "part of the land in that year", substitute the words "together with".'

The amendment was lost.

MR. CHAIRMAN:—"The question is—

'In section 8 (3) (a), for the words "as such land whichever is higher" at the end, substitute the words "as the land remaining uncultivated for that year with groundnut or with any other commercial crop".'

The amendment was lost.

THE HON. SRI K. MADHAVA MENON:—"Mr. Chairman, Sir, I beg to move—

'In new section 8, add the following as sub-section (4):—

"(4) If any dispute arises as to the amount of fair rent payable under the foregoing provisions in respect of any dry land, either the landlord or the tenant may apply to the Rent Settlement Authority for the determination of such amount, and on such application being made, the amount shall be determined by the Rent Settlement Authority in such manner as may be prescribed."

Sir, this is only replacing sub-clause (b) in another form to make the drafting clear."

The amendment was put to vote and carried.

Clause 11, as amended, was put to vote and carried and allowed to stand part of the Bill.

Clause 12.

* SRI M. NARAYANA MENON:—"Mr. Chairman, Sir, I beg to move—

'In clause 9 (b) (ii) after the words "areca trees" add "other fruit-bearing trees".'

"Sir, the clause reads thus—

'9 (b) In the case of other lands situated within the said limits, the fair rent shall be the fair rent determined under sections 5 to 8, or the fair rent determined under sub-section (a) of this section, whichever is higher:

Provided that in the case of a kudiyruppu situated within the said limits, fair rent shall be—

(i) if the kudiyruppu is twenty-five cents or less in extent the fair rent determined under sections 5 to 8 or the fair rent determined under sub-section (a) of this section, whichever is less."

Sir, I am not objecting to all that now. My objection comes only to the sub-clause coming hereafter, where the kudiyruppu exceeds twenty-five cents—

(ii) if the kudiyruppu exceeds twenty-five cents in extent, the fair rent determined in clause (i) up to twenty-five cents, and in respect of the extent in excess thereof, the fair rent determined under sections 5 to 8 or the fair rent determined under sub-section (a) of this section, whichever is higher, coconut trees, areca trees'.

[Sri M. Narayana Menon] [31st March 1951]

Sir, it is here I want to add the words 'other fruit bearing trees' so that the sub-clause will read thus—

'areca trees, other fruit-bearing trees and pepper vines, if any, on the kudiyiruppu being deemed for the purposes of this paragraph to be evenly distributed over the entire extent of the kudiyiruppu.'

Sir, this is all a complicated procedure to be followed. Why should there be one procedure for kudiyiruppus not exceeding 25 cents and another procedure for kudiyiruppus exceeding 25 cents? For the latter also, the procedure adopted for the former may be followed. This is not a case of garden land. It is all kudiyiruppus. So, for the fair rent, all kinds of trees must be taken into account. It is not enough if we take into account for fair rent coconut trees and areca trees only. All the other trees should be taken into account."

JANAB ABDUL LATIF FAROOKHI :—" I beg to second it."

THE HON. SRI K. MADHAVA MENON :—" Mr. Chairman, Sir, I oppose the amendment. Sir, in the definition clause, I explained why the words 'fruit bearing trees' were removed and the words 'coconut trees and areca trees' were put in their place. I said they are not perennial trees and so it is dangerous to give the landlord a share of their produce. So I oppose the amendment."

MR. CHAIRMAN :—" The question is—

'In clause 9 (b) (ii) after the words "areca trees" add the words "other fruit-bearing trees".'

The amendment was lost.

Clause 12 was put to vote and carried and allowed to stand part of the Bill.

Clause 13.

* SRI M. NARAYANA MENON :—" Mr. Chairman, Sir, my amendment is with reference to the proposed new section 9-E. I beg to move—

'In the proposed new section 9-E, add at the end, the words "or in kind at the option of the tenant".'

Sir, the proposed section 9-E says—

'9-E. In so far as the fair rent is in kind, it shall be payable, in the case of wet lands, in kind, or if the landlord and the tenant so agree, in money; and in the case of garden lands or of dry lands other than dry lands in which pepper is cultivated as the principal crop, in money.'

Sir, so far I agree. But I want to add after that, the words, 'or in kind at the option of the tenant.' Sir, as between the landlord and the tenant, it is more convenient to pay the rent in kind. Further the landlord has use for the coconuts and other fruits and so it will be easy for the tenant to pay the rent in kind and for the landlord to receive it. Now, suppose there are no such words as I am now suggesting in the Act, and suppose the landlord and the tenant agree between them to receive rent in kind. What will happen if the tenant does not pay the rent? The landlord cannot enforce the payment of rent in kind in a court of law. The court will decree only for payment of rent in money. So, I say, give the option to the tenant to pay in kind."

[31st March 1951]

* SRI R. SURYANARAYANA RAO :—" Mr. Chairman, Sir, I beg to second it. As you said, we are really strange bed-fellows. Mr. Narayana Menon has come to realize that there is a defect in belonging to a party which has a steam roller majority. That apart, Sir, I am anxious that in the case of produce of garden land, like coconuts, areca nuts and other fruit trees, there should be a provision for payment of rent in kind. It is usual in Malabar and in South Kanara for the landlord to get a certain number of coconuts as presents on ceremonial occasions. Further he gets coconuts always as rent in kind only, because coconuts are used for domestic purposes. But in the present clause, the Hon. Minister compels the tenant to give the rent only in money and compels the landlord to receive rent only in money. It is unfair to make compelling provisions of the kind proposed.

"As Sri M. Narayana Menon says, if the tenant proposes to 12-45 pay in kind and the landlord agrees, let there be payment in kind. p.m. Suppose a tenant has no storage space. If he finds it convenient to give to the landlord at the rate of ten coconuts for each tree and if the landlord's house is very near, he can simply dump the coconuts on the landlord and go away. If the tenant thinks that he can make more profit if he stores the produce and sell it later on when market conditions are favourable, it is open to him to retain the produce and pay the rent in money. After all, the amendment gives the option only to the tenant whom the Government want to protect and not to the landlord. The Hon. Sri Madhava Menon may say that the tenants are helpless and that the landlords always put pressure upon them. There were such days, but those days are gone. These are the days of kisan raj and the tenants assert their rights. If only the Hon. Sri Madhava Menon makes more provision for the extension of education, very soon all the kisans can read the Statutes and understand and assert the rights and privileges conferred on them. Now, at least some tenants do not know their rights and privileges until some agitator comes and explains the position. As I said, the amendment gives the option only to the tenant. If Sri Narayana Menon had proposed to give the option to the landlord, I would have objected."

THE HON. SRI K. MADHAVA MENON :—" The first part of section 9-E provides that the rent for wet lands shall be payable in kind."

SRI M. NARAYANA MENON :—" That is the Government amendment."

THE HON. SRI K. MADHAVA MENON :—" The section as passed by the Assembly says that the rent for wet lands shall be payable in kind. Mr. Narayana Menon wants that provision to be retained. Only in the case of garden lands and of dry lands other than dry lands in which pepper is cultivated as the principal crop, he wants the rents to be made payable in money or in kind at the

[Sri K. Madhava Menon] [31st March 1951]

option of the tenant. Are Sri Suryanarayana Rao and Sri Narayana Menon prepared to apply the principle of this amendment both to wet land as well as to garden and dry land? I oppose this amendment."

* SRI M. NARAYANA MENON :—" The provision is already there that fair rent for wet lands shall be payable in kind, or if the landlord and the tenant so agree, in money. I do not want to meddle with it. I am only saying that the rent for garden or dry land should be in money or in kind at the option of the tenant."

MR. CHAIRMAN :—" The question is—

'In the proposed section 9-E, *add at the end the words "or in kind at the option of the tenant"'*."

The amendment was lost.

MR. CHAIRMAN :—" Since Sri Suryanarayana Rao's amendment is the same as this, it also goes."

* SRI M. NARAYANA MENON :—" Sir, I move—

'In the proposed section 9-F, after the words "*Arrears of fair rent*" insert the words "*and michavaram*"'."

"It may be argued before courts that rent and michavaram are different. Provision is made for payment of interest on arrears of rent. I want to include michavaram, so as to make it clear that interest shall be payable on arrears of michavaram also."

JANAB K. UPPI :—" I second the amendment."

THE HON. SRI K. MADHAVA MENON :—" I oppose the amendment. Michavaram is what is paid by the intermediary to the landlord. We have said that the terms of contract shall prevail in respect of all matters between the intermediary and the landlord. We are not very particular about protecting the intermediary. Rent is what is paid by the actual cultivator to his immediate landlord. We want to protect the actual cultivator."

MR. CHAIRMAN :—" The question is—

'In the proposed section 9-F after the words "*Arrears of fair rent*" insert the words "*and michavaram*"'."

The amendment was lost.

* SRI R. SURYANARAYANA RAO :—" Sir, I move—

'In the proposed section 9-G, for the word "*twenty*" substitute the word "*thirty*"'."

"Under section 9-G, the fair rent determined by the Rent Settlement Authority under section 9-C shall be in force for a period of twenty years. My suggestion is that it shall be in force for a period of thirty years. In other words, I want the revision to be once in thirty years. I make this suggestion on the analogy of the resettlement operations in vogue in this State. After taking

[31st March 1951] [Sri R. Suryanarayana Rao]

various circumstances into account and after a good deal of consideration, the British Government decided that, if there should be resettlement at all, it should be once in thirty years. I have not looked into the Settlement Manual. But various considerations should have prevailed to make the Government of the day come to that decision. I take it that the same circumstances operate in the matter of revision of fair rent. I do not know why the Hon. Minister thinks that twenty years will be all right. There is the provision for increasing or decreasing the rent in between the two revisions on account of increase or decrease in the area or the productive capacity of the holding due to natural causes. I do not agree to sub-clause (b) because increase in the productive capacity should be taken into account only when the revision takes place, i.e., once in thirty years. With these safeguards, however why should not the revision of rent be once in thirty years?"

"Hon. Members may think that I am pro-landlord because I am supporting Sri M. Narayana Menon in certain respects. I am not so. I want to be fair to the landlords as well as the tenants."

MR. CHAIRMAN :—" Is the Hon. Minister the only person who is not fair? I think he is equally fair."

SRI R. SURYANARAYANA RAO :—" Whether he is fair or not will come to light when he moves for the third reading of the Bill."

JANAB K. UPPI :—" I second the amendment."

THE HON. SRI K. MADHAVA MENON :—" Though the amendment is in favour of the tenant, twenty years is the time prescribed in the existing Act and we need not change it. There is the safeguard of revision for contingencies occurring in between two revisions."

MR. CHAIRMAN :—" The question is—
In the proposed section 9-G, for the word "*twenty*" substitute the word "*thirty*"'."

The amendment was lost.

Clause 13 was put and carried and allowed to stand part of the Bill.

Clause 14 was put and carried and allowed to stand part of the Bill.

Clause 15.

* SRI M. NARAYANA MENON :—" Sir, I move—

'In the first proviso to the proposed section 10, after the words "*commercial site*" add the words "*or of any dry land not being a kudiyruppa situated within a municipality*"'."

Under the proposed section 10, fifty of tenure is given to certain classes of tenants in respect of their holding. In the first proviso, an exception is made in respect of a commercial site unless

[Sri M. Narayana Menon] [81st March 1951]

immediately before the commencement of the Malabar Tenancy (Amendment) Act, 1951, the tenant had fixity of tenure in such site or a right to obtain a renewal of his tenancy in respect thereof. I want to add as a further exception any dry land not being a kudiyiruppu situated within a municipality. My amendment does not prevent the giving of fixity of tenure in respect of any dry land situated within a municipality if it is a kudiyiruppu. Any dry land has the potentiality of becoming a very highly priced property. When trade flourishes and the municipality expands, the value of the dry land will appreciate. Why should fixity of tenure be given in respect of the land when there is the potentiality of its appreciating in value?

JANAB K. UPPI:—I second the amendment.

THE HON. SRI K. MADHAVA MENON:—I oppose the amendment. My hon. Friend's object is that the tenants on dry lands should not be given fixity of tenure. That is not the scheme of the Bill.

MR. CHAIRMAN:—The question is—

In the first proviso to the proposed section 10, after the words "commercial site" add the words "or of any dry land not being a kudiyiruppu situated within a municipality".

The amendment was lost.

THE HON. SRI K. MADHAVA MENON:—Sir, I move—

In new section 10, for the whole of the Explanation ending with the words "of the Improvements Act", substitute the following:—

Explanation.—For the purposes of the foregoing proviso, the janmi's rights in the holding shall be valued—

(i) in the case of a kanam existing on the date of the commencement of the Malabar Tenancy Act, 1929, at twenty times the excess of (a) the annual fair rent of the holding as payable on that date under that Act over (b) the annual assessment then payable thereon;

(ii) in the case of a kanam created after such commencement and before the date of the commencement of the Malabar Tenancy (Amendment) Act, 1951, at twenty times the excess of (a) the annual fair rent of the holding as payable under the Malabar Tenancy Act, 1929, on the date of the kanam over (b) the annual assessment then payable thereon;

(iii) in the case of a kanam created on or after the date of the commencement of the Malabar Tenancy (Amendment) Act, 1951, if and to the extent the kanam relates to wet land, at thirty times the excess of (a) the annual fair rent of the holding as payable on the date of the kanam under the Malabar Tenancy Act, 1929, as amended by the Amendment Act aforesaid,

31st March 1951] [Sri K. Madhava Menon]

over (b) the annual assessment then payable thereon, and if and to the extent the kanam relates to garden or dry land, at twenty-five times such excess."

"Sir, this Explanation has been re-drafted. We have fixed 1 p.m. the fair rent. We have to make corresponding provisions now. The landholder's interest is to be valued at a particular number of times the fair rent. What were kanams before should not become mortgages under the present Bill. Similarly, what were mortgages should not become kanams. The Explanation is necessary to see that what were tenures before do not become mortgages, and mortgages continue to be mortgages, in view of the variation in fair rent. This is only a consequential amendment."

MR. CHAIRMAN:—The question is—

In new section 10, for the whole of the Explanation ending with the words "of the Improvements Act", substitute the following:—

Explanation.—For the purposes of the foregoing proviso, the janmi's rights in the holding shall be valued—

(i) in the case of a kanam existing on the date of the commencement of the Malabar Tenancy Act, 1929, at twenty times the excess of (a) the annual fair rent to the holding as payable on that date under that Act over (b) the annual assessment then payable thereon;

(ii) in the case of a kanam created after such commencement and before the date of the commencement of the Malabar Tenancy (Amendment) Act, 1951, at twenty times the excess of (a) the annual fair rent of the holding as payable under the Malabar Tenancy Act, 1929, on the date of the kanam over (b) the annual assessment then payable thereon;

(iii) in the case of a kanam created on or after the date of the commencement of the Malabar Tenancy (Amendment) Act, 1951, if and to the extent the kanam relates to wet land, at thirty times the excess of (a) the annual fair rent of the holding as payable on the date of the kanam under the Malabar Tenancy Act, 1929, as amended by the Amendment Act aforesaid, over (b) the annual assessment then payable thereon, and if and to the extent the kanam relates to garden or dry land, at twenty-five times such excess."

The amendment was put and carried.

Clause 15, as amended, was put and carried and allowed to stand part of the Bill.

Clause 16 was put and carried and allowed to stand part of the Bill.

Clause 17.

MR. CHAIRMAN:—The motion is—
That clause 17 do stand part of the Bill.

* SRI M. NARAYANA MENON:—Sir, my amendment is in respect of section 14 (3) of the Act. According to your ruling,

[Sri M. Narayana Menon] [31st March 1951]

Sir, I must point out that it is not any sub-section, but it is only a portion of the sentence. This I must say before I move the amendment.

THE HON. SRI K. MADHAVA MENON:—“In view of your ruling, Sir, the hon. Member cannot move his amendment.”

SRI M. NARAYANA MENON:—“I can move. What I am saying is that it is not a sub-section. It is only a part of the sentence. Therefore, I can move my amendment. Sir, I propose moving an amendment to section 14 (3) of the Act.”

MR. CHAIRMAN:—“What is the amendment?”

SRI M. NARAYANA MENON:—“The amendment is—

“In section 14 (3) of the Act, delete the words “or any portion of the”.”

MR. CHAIRMAN:—“Let me just understand the position.”

THE HON. SRI K. MADHAVA MENON:—“The landlord will be worse off in consequence of this amendment, Sir.”

MR. CHAIRMAN:—“Why does the hon. Member want to omit the words “or any portion of the”? This is not in favour of the landlords.”

SRI M. NARAYANA MENON:—“It all depends on how we understand it, Sir. If I have not understood it correctly, I will withdraw it. But I believe I have understood it correctly. Sub-section (3) will read, if my amendment is accepted, as follows:—

“that the tenant has not paid, within three months after the due date, the whole rent due in respect of the holding.”

MR. CHAIRMAN:—“If the words “or any portion of the” are removed, he cannot be evicted unless he has not paid the whole.”

SRI M. NARAYANA MENON:—“I did not understand that at all. I thought if the tenant paid any portion of it, it might mean that the landlord could not evict him.”

MR. CHAIRMAN:—“The point is this. If the tenant has not paid the whole or any portion of the rent in respect of a holding, he can be evicted.”

SRI M. NARAYANA MENON:—“I move, Sir—

“In item (v) in the proposed further proviso after the words “shall be evicted” add the words “from a sthanam or trust property”.”

Sir, I am afraid of the court more than the legislature. A sthani cannot under the Bill evict a tenant from the holding. A tenant who is holding the property under a sthani as sthanam property cannot of course be evicted. But suppose a sthani has his own lands apart from sthanam lands. Then the sthani must be able to evict his tenant.”

31st March 1951]

MR. CHAIRMAN:—“Where are the words “shall be evicted” to be found? I do not find them here.”

SRI M. NARAYANA MENON:—“On page 11 of the Bill, at the top these words are found in the further proviso. Item (v) says—

“(v) after the proviso and before the Explanation, the following further proviso shall be inserted, namely:—

“Provided further that—

“(1) no tenant shall be evicted on the ground specified in clause (5) or clause (6) by any sthani or by the trustee of any temple, mosque, church or other place of public religious worship or of any other public religious or charitable institution or endowment.”

My amendment is—

“In item (v) in the proposed further proviso after the words “shall be evicted” add the words “from a sthanam or trust property”.”

“I want to add the words “from a sthanam or trust property” after the words “shall be evicted”. I am only making it clear to avoid difficulties in Courts. What we are concerned with is sthanam or trust property and not his own property.”

MR. CHAIRMAN:—“The question is—

“In item (v) in the proposed further proviso after the words “shall be evicted” add the words “from a sthanam or trust property”.”

The amendment was lost.

SRI M. NARAYANA MENON:—“Sir, I move the following amendment which stands in my name:—

“For the explanation at the end of section 14, substitute the following:—

“Explanation:—In the case of a landlord governed by any law including the Marumakkattayam and Aliyasanthana, the wife or husband and father, mother and children of the landlord shall for the purpose of this section be deemed to be members of the landlord's family having a proprietary and beneficial interest in the holding.”

Sir, the Explanation in the original Act reads as follows:—

“In the case of a landlord governed by a law other than the Marumakkattayam law, the wife or husband and the children of the landlord shall be deemed to be members of the landlord's family having a proprietary and beneficial interest in the holding.”

Now, I will just explain what the meaning of this Explanation, according to me, is. Sir, in Malabar and some portions of South Kanara, the Marumakkattayam or Aliyasanthana law prevails. Persons in these portions are sought to be excluded from the operation of this Explanation. The effect of it is that the wife or husband and the father, mother and children of these persons will not be deemed to be members of the landlord's family having a proprietary and beneficial interest in the holding. But according to the provisions of a previous sub-clause, it is only if the

[Sri M. Narayana Menon] [31st March 1951]

members of his family have a proprietary and beneficial interest in the holding that the landlord is entitled to eject the tenant from the holding for the purpose of maintaining them. But since the Explanation seeks to provide that the wife, husband, children, etc., of the landlord governed by the Marumakkattayam or Aliyasanthana law cannot be deemed to be members of the landlord's family having a proprietary or beneficial interest in the holding, the right of evicting the tenant from the holding is denied to him. After 1933 when the Marumakkattayam law was introduced in Malabar, the members of a family can partition the property and get divided from the family. Therefore, he or she stands alone with no other person in the family, family in the sense of a tarwad, to maintain him or her. In effect, they become makkattayees, that is to say, persons governed by the Makkattayam law. The Makkattayam law will be ordinary Mitakshara law, i.e., where the inheritance is from the father and so on. Practically it is so under the Act of 1933. The property of a person dying intestate is inherited by his son or by his wife or by his daughter, as the case may be, but not by the nephew or sister except in certain special circumstances, i.e., when the other persons are absent. So, a man getting himself divided from the tarwad or family stands alone with liability to maintain.

MR. CHAIRMAN:—"But a new tarwad can come into existence."

SRI M. NARAYANA MENON:—"How can a new tarwad come into existence? He is only an individual."

MR. CHAIRMAN:—"In the case of 'she'?"

SRI M. NARAYANA MENON:—"In the case of 'she', it can come into existence. Suppose she does not bring forth a child. She may have somebody to maintain, e.g., her husband. Husband also may have to be maintained sometimes."

MR. CHAIRMAN:—"For the sake of information, I want to know whether a new tarwad can come into existence in that case."

* SRI M. NARAYANA MENON:—"She can bring forth children and then another tarwad will come into existence. But in the case of a man, a new tarwad will not come into existence. Then what is his position in society with reference to his wife and children? Under the Marumakkattayam Act of 1933, he is liable to maintain his wife and children. Suppose he gets some property which is in the hands of a tenant, and he wants the property for the purpose of maintaining them. This Explanation says, 'You cannot evict the tenant'. This means that the right of the Marumakkattayee in Malabar with reference to whose lands the legislation is passed is taken away and that it is bestowed upon landlords of other communities. Now let us take a Muslim. There are Marumakkattayam Muslims also. What is the position of a Muslim governed by the Marumakkattayam law? He has got

31st March 1951] [Sri M. Narayanan Menon]

property and he has got also children. He must maintain his wife and children. He has got no right of eviction over the property except that he has got to maintain his family under the law. But a Muslim not governed by the Marumakkattayam law can get hold of the property for the purpose of maintaining his family. Why not that right be given to a Marumakkattayee who has got the liability to maintain his wife and children? In the case of a Muslim, the wife and children have no right over the property and yet they will be deemed to be members of the landlord's family having a proprietary or beneficial interest in the holding. I say that such a right may be given to a Marumakkattayee divided from the tarwad, standing by himself and with the liability of maintaining his wife and children under the Act of 1933. Therefore, I move the amendment."

SRI R. SURYANARAYANA RAO:—"I second the amendment, Sir."

MR. CHAIRMAN:—"Amendment moved—

'For the Explanation at the end of section 14, substitute the following:—

"Explanation.—In the case of a landlord governed by any law including the Marumakkattayam and Aliyasanthana, the wife or husband and father, mother and children of the landlord shall for the purpose of this section be deemed to be members of the landlord's family having a proprietary and beneficial interest in the holding."

THE HON. SRI K. MADHAVA MENON:—"Sir, my hon. Friend Sri Narayana Menon wants to make a very vital change in the Marumakkattayam law and in the Aliyasanthana law. He wants to effect it through the Malabar Tenancy Act. The existing Explanation says—

"In the case of a landlord governed by a law other than the Marumakkattayam law, the

We only want to add the Aliyasanthana law here because some portions of South Kanara are also included within the purview of this Bill. In the case of people who follow a law other than Marumakkattayam law, wife and children are heirs. So, we provided in the original Act that those landlords who did not follow the Marumakkattayam law could evict the tenant if they wanted the property for the purpose of maintaining the members of their families. Who are the members of the family? They are his wife and children. But in the case of a person governed by the Marumakkattayam law, wife and children are not members of the family having a right over the property. As you rightly put it, Sir, suppose a woman after partition stands aloof; she has got a husband and children. Then, she forms a tarwad by herself. But according to my hon. Friend Sri Narayana Menon, her husband becomes a heir for the purpose of evicting the tenant. That means increasing the number of people who are given the right of eviction. That can be done only by an amendment to the

[Sri K. Madhavi Menon] [31st March 1951]

Marumakkattayam Act. The original Malabar Tenancy Act did not give the right of eviction to people governed by the Marumakkattayam law. We do not want to change it.

MR. CHAIRMAN:—The question is—
For the Explanation at the end of section 14, substitute the following:—

Explanation.—In the case of a landlord governed by any law including the Marumakkattayam and Aliyasanthana, the wife or husband and father, mother and children of the landlord shall for the purpose of this section be deemed to be members of the landlord's family having a proprietary and beneficial interest in the holding.

The amendment was lost.

Clauses 17 and 18 were put and carried and allowed to stand part of the Bill.

Clause 19.

MR. CHAIRMAN:—The motion is—
That clause 19, do stand part of the Bill.

* Sri R. SURYANARAYANA RAO:—“Sir, I move the following amendment which stands in my name:—

After clause 19, insert the following new clause as 19-A:—

“19-A. A customary verumpattamdar, a kanamdar, a kushikanamdar, a kanam-kushikanamdar or holder of any lease till now subject to claim renewal on payment of renewal fee shall, in lieu of renewal fee from the date on which it becomes due, pay to his immediate landlord every year in addition to michavaram a sum equal to one-twelfth of the fair rent where the grant of renewal was normally for a period of twelve years or a sum equal to the fair rent divided by the number of years for which the renewal would have been customarily due but for the passing of this Act.”

“Sir, replying to the general discussion on the Bill, the Hon. the Minister for Law quoted the evidence that I tendered before the Kuttickrishna Menon Committee against the payment of renewal fee. I stand by it. I am glad that the Hon. the Minister for Law is endeavouring in this Bill to get rid of all the incidents relating to renewal fee and the renewal fee itself. I would like him to examine this question whether this renewal fee has not been an incident of kanam tenure. Now, we are removing all the incidents but retaining the institution. I would have greatly appreciated if the Hon. the Minister for Law had brought forward in this Bill provisions to see that the intermediaries, kanamdar, kushikanamdar and all those who were governed by the kanam tenure, were effaced altogether and the janmi and the cultivating tenant alone were retained and the Government regulated the relationship

[Sri R. Suryanarayana Rao]

between the janmi and the cultivating tenant. But he is trying to keep up this institution of kanam and, Sir, you will see some of the amendments he has given notice of are in favour of the kanamdar. So long as the kanam tenure is continued, it is not possible to do away with renewal fee or some semblance of it. When I asked in the general discussion on the Bill why he had not tried to remove the kanamdar altogether, he quoted to me some Article of the Constitution restraining him from taking away certain rights of persons. But can he remove this right of the janmi for renewal fee which exists under the kanam tenure without compensation? Will he not be violating the provisions of the Constitution? I am anxious that the validity of this Bill which is mainly intended to bring relief to the tenants should not be jeopardised by our doing something, by our trying to deprive certain persons of their rights in the property.

I know the Hon. Minister for Law has obtained legal opinion in this matter. But I may tell him that legal opinion is divided on this point. If it is felt that the removal of the kanamdar is against the Articles of the Constitution, to deprive the janmis of their lands without any compensation is also against the Articles of the Constitution. I do not have any affection towards the janmis. I want that this Bill should become law and assist the tenants. My hon. Friend, Sri Narayana Menon, will support me in this though from a different point of view. I must confess that I got the idea of suggesting this amendment when I read the report of the Travancore Land Reforms Committee. This system of payment of renewal fee exists in that State. That Committee considered this question at great length and came to the conclusion that the best way is to give the landlord something in addition to the michavaram. When we deprive the janmis of the entire renewal fee, it is but just and proper that we must see that they get something in addition to make up the loss that they might incur consequent on the abolition of the renewal fee.

There is another point to which I would like to refer. I do not know whether the Hon. Minister for Law has statistics to show whether it is not a fact that in many cases the michavaram is nominal because the renewal fee is so much. Are there not documents to show that a person, who is related to the janmi, got the lease on a nominal michavaram and when the leaseholder changed and when the time came for renewal, high renewal fees were demanded? This may be due to very many reasons. The leaseholder who may seek renewal may not be the same leaseholder who originally took the land on lease. When the michavaram is nominal and when the renewal fee on which the janmi has been relying all these days to make up his loss is also abolished, should we not provide for compensation in some form or other? That is my point. I am suggesting that fair rent of one year may be divided by the number of years for which the lease has been subsisting and this amount may be added to the michavaram. Suppose fair rent for a particular piece of land is Rs. 200 in respect of which the renewal fee may be Rs. 600 or even Rs. 1,200. All that I am saying is that this Rs. 200 may be divided by 12 or 6

[Sri R. Suryanarayana Rao] [31st March 1951]

or 6, or whatever it is according to the period of lease; and add the amount that you get after dividing Rs. 200 by the number of years to the michavaram. This will not be a burden on the tenant. At the same time, it will not in any way nullify the provisions of the Act. I am sure that the Hon. Minister for Law has obtained the opinion of the previous Advocate-General. I think he has also obtained the opinion of the present Advocate-General and also other lawyers."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"And the opinion of the future Advocate-General also!" (Laughter.)

* SRI R. SURYANARAYANA RAO:—"I do not know who the future Advocate-General will be. Whatever it is, the Hon. Minister is naturally anxious to be buttressed by legal opinion and talents from all sides and I quite appreciate his anxiety to do things according to law. It is argued that the kanamdars cannot be removed as that would be against the Articles of the Constitution. In the same manner, the janmis' rights should not be taken away without providing adequate compensation in some form or other. Sir, my amendment is very innocuous and is a simple provision intended to validate the piece of legislation which is being sponsored with a view to give maximum benefit to a large number of tenants in Malabar. At the same time, this will satisfy the local sections of the landlords who feel that their right to possess these lands is being taken away without compensation. I feel that in theory and in practice we will be giving effect to the principle of compensation by accepting this amendment."

The amendment was duly seconded.

MR. CHAIRMAN:—"Motion moved—

After clause 19, insert the following new clause as 19-A:—

"19-A. A customary verumpattamdar, a kanamdar, a kuzhikanamdar, a kanam-kuzhikanamdar or holder of any lease till now subject to claim renewal on payment of renewal fee shall, in lieu of renewal fee from the date on which it becomes due, pay to his immediate landlord every year in addition to michavaram a sum equal to one-twelfth of the fair rent where the grant of renewal was normally for a period of twelve years or a sum equal to the fair rent divided by the number of years for which the renewal would have been customarily due but for the passing of this Act."

THE HON. SRI K. MADHAVA MENON:—"Sir, I have spoken at length, when I moved the report of the Joint Select Committee, about this question of renewal fee. The position is not exactly the same as explained by the hon. Gentleman, Sri Suryanarayana Rao. When he gave evidence in Malabar some years ago, he did not make any condition. He merely said that this renewal fee must go. Whatever that be, I want to make one point clear here. Apart from the question of the Constitution, we are not very anxious about the kanamdars. Sri Suryanarayana Rao said that I want to protect the kanamdars. It is not so. The

[Sri K. Madhava Menon] [31st March 1951]

position is that for the proper cultivation of the land there must be security of tenure for the persons who cultivate the land. They must also get a fair share of the produce which they raise through their own effort and without the help of anybody. When this is secured, in all fairness to these people they must be allowed to continue cultivation of the land. By the present amending Bill, we seek to give security of tenure and fair rent to these people who raise crops in the lands through their hard work. The person, who is actually in possession of the lands and who actually cultivates these lands and raises crops by his hard labour should not be evicted from these lands under any circumstance, and his share must be half the net produce. When these have been secured to the cultivating tenants, it is immaterial for us to look into cases where it will affect others who do not actually cultivate. Certainly, this will reduce the position of non-cultivating kanamdars, and I have said so in many places. Some of the newspapers have also said that consequent on the introduction of these provisions, the kanamdars will automatically disappear even without asking for compensation, as it will be impossible for them to work. This may be true to some extent. We want security of tenure and fair rent to those who actually work in the fields. When we secure these to these people, if somebody else is affected, we cannot help that.

"With regard to this renewal fee, which has been a bane, I must say that the people of Malabar have resented this renewal fee. That is why, when the hon. Gentleman, Sri Suryanarayana Rao, was in Malabar some years ago, he gave evidence before a Committee that the renewal fee should be abolished. He says now that he did not want it to be given in one instalment. So, he says that he is asking that this may be given in twelve instalments, instead of one. Even the Courts have held that this renewal fee is only a deferred payment of rent and nothing more. When the people of Malabar do not want the continuance of this renewal fee and when it is considered by them as nothing but exaction and when the Courts have held that it is nothing but deferred payment of rent, I do not know how we can allow it to continue in some form or other. The hon. Gentleman, Sri Suryanarayana Rao, said that I might have consulted the previous Advocate-General, the present Advocate-General—and Dr. Lakshmanaswami Mudaliyar added that I might have consulted the future Advocate-General also—in this matter. I would like to inform the hon. Gentleman that a Minister has after all to be guided by expert opinion. I must certainly get expert legal opinion and satisfy myself whether the provisions of the Act offend the Constitution, and I must say that I am satisfied that they do not. I cannot accept the amendment of the hon. Gentleman, Sri Suryanarayana Rao, as it will not help the tenants of Malabar."

MR. CHAIRMAN:—"The question is—

After clause 19, insert the following new clause as 19-A:—

"19-A. A customary verumpattamdar, a kanamdar, a kuzhikanamdar, a kanam-kuzhikanamdar or holder of any lease till now subject to claim renewal on payment of renewal fee shall

[Mr. Chairman]

[31st March 1951]

in lieu of renewal fee from the date on which it becomes due, pay to his immediate landlord every year in addition to michavaram a sum equal to one-twelfth of the fair rent where the grant of renewal was normally for a period of twelve years or a sum equal to the fair rent divided by the number of years for which the renewal would have been customarily due but for the passing of this Act."

The amendment was lost.

Clause 19 was put and carried and allowed to stand part of the Bill.

MR. CHAIRMAN :—" I now adjourn the House till 2-30 p.m. for lunch."

The House then adjourned.

(After lunch—2-30 p.m.)

Clause 20.

* SRI M. NARAYANA MENON :—" Sir, I move—

In the proposed amendment for the omission of clause (3), substitute the following :—

" (ii) For clause (3), substitute the following :—

(3) that the tenant has not paid within three months after the due date, the whole of the michavaram or rent due in respect of the holding."

There is a provision in the Bill that if a verumpattamdar does not pay rent to the landlord within three months, he can be evicted from the holding. But there is no such provision so far as the kanamdar is concerned. Under the present Bill, sub-section (3) of section 20 of the Act is sought to be omitted. Instead of omitting that sub-section, I have proposed the amendment which I have just now moved. If my amendment is accepted the section will read—

" No suit for eviction of a customary verumpattamdar, kanamdar, kanam-kuzhikanamdar or kuzhikanamdar shall lie at the instance of his landlord except on the following grounds,

one of the grounds being—I do not interfere with the grounds mentioned in sub-sections (1) and (2)—that the tenant has not paid within three months after the due date, the whole of the michavaram or rent due in respect of the holding. So far as the verumpattamdar is concerned, there is such a provision. I want it to be extended to the case of kanamdar also. It is simply to induce the tenant to make payment of the michavaram due to the landlord, that I move this amendment."

MR. CHAIRMAN :—" (After a pause) I suppose there is no seconder."

JANAB ABDUL LATIF FAROOKHI :—" Sir, I second it."

MR. CHAIRMAN :—" The hon. Member must be quick. Otherwise, I would simply declare, ' amendment dropped.' We are pressed for time and there is no use in rising late if hon. Members do not want to support an amendment."

[31st March 1951]

THE HON. SRI K. MADHAVA MENON :—" Sir, I oppose the amendment."

MR. CHAIRMAN :—" The question is—

' In the proposed amendment for the omission of clause (3), substitute the following :—

" (ii) For clause (3), substitute the following—

(3) that the tenant has not paid within three months after the due date, the whole of the michavaram or rent due in respect of the holding."

The amendment was lost.

* SRI M. NARAYANA MENON :—" Sir, I move—

' In section 20 (5) of the Act, after the words " that the " add the word " existing " and after the words " period of the " add the word " customary " "

This is only a verbal amendment. There is a mistake which had crept in in the Act even before. Many amendments have now been introduced newly but this mistake has not been sought to be corrected. Section 20 of the Act says—

" No suit for eviction of a customary verumpattamdar, kanamdar, kanam-kuzhikanamdar or kuzhikanamdar shall lie at the instance of his landlord except on the following grounds."

When we come to ground No. 5, we see that the customary verumpattamdar is omitted and instead of customary verumpattamdar, verumpattamdar is introduced. It is only a mistake. Having stated—

" that the period of the verumpattam, kanam, kanam-kuzhikanam or kuzhikanam, as the case may be, has expired and the landlord needs the holding bona fide for the purpose of raising crops or other produce for his own maintenance or for that of any member of his tarward, tavashi, kutumba, kavaru or family who has a proprietary and beneficial interest in the holding."

it is not fair to omit the customary verumpattam, especially when the first part of the section contains it. The mistake has been committed and I want it to be rectified.

" Secondly, Sir, after the words ' period of the ' I want the word " customary " to be added. The period is only the period remaining and there cannot be a fresh period hereafter because no fresh period is provided by way of a renewal so that the ' existing period of the customary verumpattam ' must be there. If my amendment is accepted, it will be in consonance with what is stated in the early part of the clause."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" Sir, I second it."

THE HON. SRI K. MADHAVA MENON :—" Sir, I oppose it."

MR. CHAIRMAN :—" The question is—

' In section 20 (5) of the Act, after the words " that the " add the word " existing " and after the words " period of the " add the word " customary " "

The amendment was lost.

[31st March 1951]

* SRI M. NARAYANA MENON :—" Sir, I move—
In section 20 (6), after the words " after the " add the word
" existing " and after the words " period of the " add the
word " customary ".

This is the same as my previous amendment.

MR. CHAIRMAN :—" The same will be the result." (Laugh-
ter.)

SRI M. NARAYANA MENON :—" Results are not different
at all. I am proposing the amendment because it is my duty to
point out the defects in the Bill."

The amendment was duly seconded.

THE HON. SRI K. MADHAVA MENON :—" Sir, I oppose
it."

MR. CHAIRMAN :—" The question is—

In section 20 (6), after the words " that the " add the word
" existing " and after the words " period of the " add the word
" customary ".

The amendment was lost.

* SRI M. NARAYANA MENON :—" Sir, I move—

In section 20, in the proposed clause (7), after the words
" the period of the " add the word " customary ".

The amendment was duly seconded.

THE HON. SRI K. MADHAVA MENON :—" Sir, I oppose
it."

MR. CHAIRMAN :—" The question is—

In section 20, in the proposed clause (7), after the words
" the period of the " add the word " customary ".

The amendment was lost.

SRI R. SURYANARAYANA RAO :—" The next two amend-
ments of Sri M. Narayana Menon need not be moved since the
principle involved therein was already discussed when we were on
clause 14."

SRI M. NARAYANA MENON :—" I think it was accepted."

SRI R. SURYANARAYANA RAO :—" No."

MR. CHAIRMAN :—" Is the hon. Member moving those
amendments?"

* SRI M. NARAYANA MENON :—" It is a most innocuous
principle. I shall move them one by one. Sir, I move—

In sub-section (1) of the further proviso to the proposed
section 20 (7), after the words " shall be evicted " add the
words " from a sthanam or trust property ".

The amendment was duly seconded.

[31st March 1951]

THE HON. SRI K. MADHAVA MENON :—" I oppose the
amendment."

MR. CHAIRMAN :—" The question is—

In sub-section (1) of the further proviso to the proposed
section 20 (7), after the words " shall be evicted " add the words
" from a sthanam or trust property ".

The amendment was lost.

* SRI M. NARAYANA MENON :—" Sir, I move—

For the explanation at the end of section 20, substitute the
following :—

Explanation.—In the case of a landlord governed by any
law including the Marumakkathayam and the Aliyasan-
thana law, the wife or husband and father, mother and
children of the landlord shall for the purpose of this sec-
tion be deemed to be members of the landlord's family
having a proprietary and beneficial interest in the hold-
ing."

The amendment was duly seconded.

THE HON. SRI K. MADHAVA MENON :—" I oppose the
amendment."

MR. CHAIRMAN :—" The question is—

For the explanation at the end of section 20, substitute the
following :—

Explanation.—In the case of a landlord governed by any
law including the Marumakkathayam and the Aliyasanthana law,
the wife or husband and father, mother and children of the land-
lord shall for the purpose of this section be deemed to be members
of the landlord's family having a proprietary and beneficial interest
in the holding."

The amendment was lost.

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

In item (vi), after the second proviso, add the following
proviso :—

Provided also that no suit for eviction on the ground
specified in clause (5) or clause (6) shall be instituted
except—

(a) in cases where the period of the lease has expired
before the commencement of the Malabar Tenancy
(Amendment) Act, 1951, within one year from the
date of such commencement and in every twelfth year
thereafter, and

(b) in other cases, within one year from the expiry
of the period of the lease and in every twelfth year
thereafter."

Sir, the principle of fixity of tenure is presumed in every case so
that the landlord cannot evict the tenant. Formerly when a

[Sri K. Madhava Menon] [31st March 1951]

renewal was made, it was for a period of twelve years and so during the period of twelve years, the landlord could not evict the tenant even for his own purposes. My amendment is that if the period expires, within one year, the landlord must elect the option of evicting the tenant from the holding for his own purposes. If he does not elect within that period, he must wait for another twelve years at the end of which he must exercise his option within one year from that date."

MR. CHAIRMAN:—"Motion moved."

In item (vi) after the second proviso, add the following proviso—

"Provided also that no suit for eviction on the ground specified in clause (5) or clause (6) shall be instituted except—

(a) in cases where the period of the lease has expired before the commencement of the Malabar Tenancy (Amendment) Act, 1951, within one year from the date of such commencement and in every twelfth year thereafter, and

(b) in other cases, within one year from the expiry of the period of the lease and in every twelfth year thereafter."

2-45
p.m.

* SRI R. SURYANARAYANA RAO:—"I do not know what the object of this amendment is after we have accepted clauses 14 and 27. We wanted to accept the principle contained in the 1945 Act. Now the Hon. Minister is introducing a new clause by which only after every twelfth year the landlords can exercise their option to resume lands for purposes of their own cultivation."

THE HON. SRI K. MADHAVA MENON:—"That is not so, Sir."

SRI R. SURYANARAYANA RAO:—"The Government say it here."

THE HON. SRI K. MADHAVA MENON:—"We are not going beyond the 1945 Act. It says that the landlord can evict only for his own bona fide purposes, for cultivation for his own purposes. Nobody could be evicted during the period of the lease. It is only after the expiry of the lease that eviction can be had even now. If we do not have a provision like this, it would mean that he can evict the tenant at any time. But I want the original provision to remain. He can sue for eviction only at the expiry of the period of lease. After the expiry if he wants the land for his own cultivation, he must issue notice within one year; and if he does not, renewal is presumed for another period of twelve years. We have to take it that the lease has been renewed, and so, only at the end of the 12 years, he must exercise his right to get back the land."

* SRI R. SURYANARAYANA RAO:—"Sir, I can understand this in regard to the subsisting lease, but the amendment wants the landlord to exercise his right within one year after the lease expires, otherwise it is taken for granted that the lease is

[31st March 1951] [Sri R. Suryanarayana Rao]

renewed for another period of 12 years. I do not feel sub-clause (b) in the amendment is necessary at all. I can understand that in the case of the existing lease, if the 12-year period is not over, at the end of that period if the landlord wants to exercise the option to resume, he can do it within one year after the expiry of the lease. Under other sections of the Act, the landlord has to give the bona fide and then take back the land. I understand this will only assist the kanamdar and not the real cultivator. That is my view. I think with regard to the existing lease, we cannot interfere because the period must elapse and afterwards we give one year. Even for that, I take objection. But it does not matter. Nowhere in the Bill do we recognize that the kanam lease continues even after the present 12 years' lease. We removed all the incidents relating to kanam. I do not know why the Hon. Minister should consider that this is necessary now. It was not in the original Act of 1945. I think this is not necessary unless it is his anxiety to restrict the right of the landlord to take the land for bona fide cultivation. As it is, landlords cannot get eviction unless they prove that it is required for their maintenance. That is why, the Hon. Minister himself knows, a number of representations were made to the Select Committee protesting against even the 1945 Act because the landlords were finding it difficult to secure eviction. But we felt that it was a good principle involved in the 1945 Act and we agreed. Now, Sir, whether it affects the landlord or the tenant, to that extent we take away the main idea underlying the provisions of the 1945 Act by recognising that only at the end of a particular period, the landlord can evict the tenant. Once that period elapses, only after 12 years the landlord can evict the tenant. I do not think it is fair. I feel it is unnecessary. We are reopening a big question on which there was so much of discussion, and making again fresh criticism and agitation perhaps. Therefore, I do not feel that this sub-clause (6) should be introduced."

JANAB K. UPPI:—"Sir, this question was discussed in the Select Committee. Disintegration is going on. Properties are being divided among members of tarwad families. Some will have only a few acres of land and there will be no place for them to live. Under these circumstances, people who are now living in tarwad will be driven out and will be on the street. They will have no opportunity to get a piece of land which belongs to them because they cannot evict the tenant. The provision in the amendment was five years. If anybody wants land, he must try to recover it. On discussion it was found that it would be a great hardship to the members of big families who are being disintegrated and it was agreed to remove that restriction of 5 or 6 years. Now it has cropped up in the Bill, restricting it to one year. After the period elapses the owner or the landlord has to file a suit. If he does not, then the tenant automatically gets renewal for another 12 years. This is only a more drastic provision than what was omitted in the Select Committee. There was then a five-year period, now it is only one year."

[31st March 1951]

THE HON. SRI K. MADHAVA MENON :—" Sir, the hon. Member, Sri Suryanarayana Rao, is not quite correct. No additional advantage is given to the kanamdar. The same position that he is now in, is retained. Under the existing Act and the 1945 Act the kanamdar could be evicted only at the end of the 12 years so that we presume that there is lease because renewals have been abolished. The right of eviction is there within one year after the period of the lease. If the landlord does not take action within that period, renewal is presumed for another period of 12 years. If the landlord wants to evict the tenant he has to wait until this period is over. No additional benefit is given to the kanamdar."

MR. CHAIRMAN :—" The question is—

In item (vi), after the second proviso, add the following proviso :—

" Provided also that no suit for eviction on the ground specified in clause (5) or clause (6) shall be instituted except—

(a) in cases where the period of the lease has expired before the commencement of the Malabar Tenancy (Amendment) Act, 1951, within one year from the date of such commencement and in every twelfth year thereafter, and

(b) in other cases, within one year from the expiry of the period of the lease and in every twelfth year thereafter."

The amendment was declared carried. A poll was demanded and the House divided thus—

Ayes.

- | | |
|--|----------------------------|
| 1 The Hon. Sri K. Madhava Menon. | 6 Sri P. Vengalbadraswami. |
| 2 The Hon. Sri C. Perumalsami Reddyar. | 7 M. Narayana Rao. |
| 3 Sri K. Venkateswami Nayudu | 8 N. Venkatachalamaji. |
| 4 M. Narayana Menon. | 9 S. Jayaram Reddier. |
| 5 S. K. Satagopa Mudaliar | 10 Mrs. M. Hensman. |
| | 11 Sri N. Ranga Reddi. |

Noes.

- | | |
|--------------------------------------|--------------------------|
| 1 Janab A. dal Latif Farookhi. | 4 Sri D. Manjappa Hegde. |
| 2 Sri M. D. T. Kumaraswami Mudaliar. | 5 R. Suryanarayana Rao. |
| 3 Sri B. Narayanaswami Nayudu. | 6 Janab K. Uppl. |

Eleven hon. Members voted for the amendment and six against.

The amendment was carried.

Clause 20 as amended, was put and carried and allowed to stand part of the Bill.

Clause 21.

* SRI M. NARAYANA MENON :—" I do not move my amendment to this clause. It is only a consequential amendment based on a previous amendment."

Clause 21 was then put and carried and allowed to stand part of the Bill.

[31st March 1951]

Clause 22.

3 p.m.

MR. CHAIRMAN :—" The motion is—

" That clause 22 do stand part of the Bill."

* SRI M. NARAYANA MENON :—" Mr. Chairman, Sir, I have the following amendment standing in my name—

" After section 21 of the said Act, insert the following as section 21-A :—

" 21-A. The customary verumpattamdar, a kanamdar, kanam-kuzhikanamdar, or kuzhikanamdar shall pay an additional michavaram or rent amounting to 1/12th of the net fair rent of the holding to his landlord in lieu of renewal fee :

Provided the landlord who agrees to take the additional michavaram in respect of a holding shall not have any right to redeem that holding under clauses 5 and 6 of section 20 of the Act.

Explanation.—For the purpose of the section 20-A net fair rent is the balance of the annual fair rent of the holding after deducting the annual assessment on the land payable by the tenant, (2) the annual michavaram of rent and (3) interest on the kanartham, if any."

Sir, it is primarily intended to make certain . . ."

MR. CHAIRMAN :—" I do not know how the hon. Member is entitled to move this amendment when clause 21 has already been passed."

THE HON. SRI K. MADHAVA MENON :—" Sir, this has already been moved by Sri R. Suryanarayana Rao."

* SRI M. NARAYANA MENON :—" Sir, I want to move it as clause 21-A."

MR. CHAIRMAN :—" How can the hon. Member move the amendment as clause 21-A when clause 21 has already been passed?"

THE HON. SRI K. MADHAVA MENON :—" Sir, even on merits he cannot move the amendment. This is an identical amendment to the one moved by Sri R. Suryanarayana Rao as new clause 19-A just before we rose for lunch."

MR. CHAIRMAN :—" Yes, Mr. Narayana Menon cannot move the amendment now."

Clause 22 was put and carried and allowed to stand part of the Bill.

Clause 23.

MR. CHAIRMAN :—" The motion is—

" That clause 23 do stand part of the Bill."

[31st March 1951]

* SRI R. SURYANARAYANA RAO :—“ Sir, I move—

*“ In the proposed new section 28, the following words be added at the end of (1) :—**“ or where there is a contract, fair rent or contract rent whichever is less ” and omit the first two provisos . ”*

Sir, what my amendment seeks to do is to restore what was originally contemplated by the Government. I do not know what made the Government think that the fair rent will be higher than the contract rent or that the contract rent is higher than the fair rent. My submission is that where a contract exists between the landlord and the tenant, according to that contractual relationship the tenant has been fulfilling his contract. Now this Bill is introduced and fair rent provisions are made. Sir, I am afraid that in some cases the fair rent provisions will affect the interests of the tenant by increasing his burden. Why should the Government by introducing fair rent provisions increase the rent and compel the poor tenant to pay more than what he has been paying and with which the landlord has been pleased till now? Sir, this provision is ostensibly intended to assist the tenant. The landlord and the tenant have been living together each observing the contract terms and the landlord also is satisfied with the rent he is getting. If by introducing this fair rent provision, the fair rent will be higher than the contract rent, the tenant will be forced to pay that fair rent. That was why the Hon. the Minister for Law felt that that might be the case and he has provided two provisos. He wants to divide the extra rent over a particular number of years and enable the tenant to pay gradually the increased fair rent. Sir, I think I am right in thinking that that is the object with which the Hon. Minister has introduced the two provisos. All this is unnecessary. Let us adopt the clause as it was drafted before by the Government. The Government drafted the clause in terms in which I have given my amendment, i.e., “ where there is a contract, fair rent or contract rent whichever is less . ” That is fair to all parties. The landlord cannot have a grievance because he entered into a contract, and has been receiving the contract rent and it cannot be in any way lost or lessened. Only if it is more than the fair rent, he will have to come down to the fair rent level. That is the principle involved and it is not intended as far as possible to disturb the relations that exist between the landlord and the tenant.

JANAB ABDUL LATIF FAROOKHI :—“ Sir, I second the amendment.”

MR. CHAIRMAN :—“ Motion moved—

“ In the proposed new section 28, the following words be added at the end of (1) :—

“ or where there is a contract, fair rent or contract rent whichever is less ” and omit the first two provisos . ”

THE HON. SRI K. MADHAVA MENON :—“ Sir, I oppose the amendment. Even though it was originally proposed by the

[31st March 1951] [Sri K. Madhava Menon]

Government, in the Select Committee stage the landlords insisted on this clause. They said, “ Under the existing Act, we cannot get anything more than the contract rent, even if it is less than the fair rent, till the period of contract is over. But, after the period of contract is over, it is open to us to enhance the rent and the present Act allows it. Now, the Government are preventing us from evicting the tenant and there is no question of expiry of period of lease. If a particular piece of land is given to a tenant on lease at a rent of, say, Re. 0-4-0 per acre for a period of 20 years and if the tenant raises tapioca or some other commercial crop during all these 20 years, we have the option at the end of the 20th year, either to renew the lease to him or to evict him or increase the rent and the existing Act provides for it.” It is also reasonable. But, now if we want to give at a higher rate, the tenant has the option to reduce it to fair rent. Even if we lower the rate, the Government are going on the basis of fair rent. So, after the expiry of the contract, the right to go to fair rent is given to the tenant. Sir, there is considerable force in what they said because, under the existing Act, the landholders are entitled to increase the rent at the expiry of the lease. Sir, in the Select Committee, Mr. Suryanarayana Rao does not seem to have dissented. I pointed out even at that time that in some cases it might increase the burden of the tenant immediately, and so, as a *via media* it was stated that for the first 5 years after the passing of this Act, the tenant will pay the contract rent or fair rent, whichever is less, but after the five years, the landlord can increase the rent by one-fifteenth for a period of 15 years. If previously he could do it in 12 years, hereafter he could do it only in 20 years. So, we have made it more rigorous than the existing Act. Because it was as a compromise this was agreed to in the Select Committee. I cannot accept the amendment.”

MR. CHAIRMAN :—“ The question is—

“ In the proposed new section 28, the following words be added at the end of (1) :—

“ or where there is a contract, fair rent or contract rent whichever is less ” and omit the first two provisos . ”

The amendment was lost.

* SRI M. NARAYANA MENON :—“ Sir, I move—

“ In the first proviso to the proposed section 28 (1), omit the words “ and for a period of 5 years thereafter , ” and

“ In the second proviso to the proposed section 28 (1), omit the words “ and for a period of 5 years thereafter . ”

Sir, it was made clear originally that the contract rent was to be paid by the tenant if the fair rent was higher. But, in the Select Committee, a change was made and it was practically opposed in the Assembly and another provision was added which in fact took away what was actually given. The original contract rent is fixed for five years. After the period of contract is over, the fair rent is fixed for fifteen years by equal gradation. The result is that till twenty years after the period of lease expires the landlord will not

[Sri M. Narayana Menon] [31st March 1951]

be able to realize anything and nobody knows what is to happen during these twenty years. The generosity shown in one place has been withdrawn in another place and it is certainly not proper. So, after the period of contract is over, the contract rent will be raised to fair rent within a period of 20 years. I therefore request that these two amendments may be adopted by the Government and I hope the Hon. the Minister for Law also would not have any objection."

The amendments fell through for want of a seconder.

Clause 23 was put and carried and allowed to stand part of the Bill.

Clause 24.

MR. CHAIRMAN :—" The motion is—

"That clause 24 do stand part of the Bill."

* SRI M. NARAYANA MENON :—" Sir, I move—

"In the proposed section 29 (3), add the following at the end, after deleting the colon :—

"unless otherwise provided for in the contract."

Sir, if the contracting parties have agreed to certain terms in the contract, I do not want the Statute to be an obstruction between the parties with regard to payment of rent. I therefore feel that my amendment is absolutely necessary and I request that it may be accepted."

The amendment fell through for want of a seconder.

Clause 24 was put and carried and allowed to stand part of the Bill.

Clauses 25, 26 and 27 were put and carried and allowed to stand part of the Bill.

Clause 28.

MR. CHAIRMAN :—" The motion is—

"That clause 28 do stand part of the Bill."

* SRI R. SURYANARAYANA RAO :—" Sir, I move—

"Omit the proposed section 32-A."

Sir, it is in the interests of the tenant I have moved this amendment. The object of the amendment is to get rid of those non-cultivating intermediaries. What the Hon. Minister does is to decrease the rent received by the intermediaries and to reduce in consequence the application of the fair rent provision. To that extent, he is reducing the michavaram due to the janmi. These intermediaries, even according to the Hon. Minister, are not contributing anything. Why should they get increased rent? So, if we want to get rid of these intermediaries, the best way is this. If the intermediary is not able to pay the michavaram which he has agreed to pay, then, he simply goes out of the picture. That is one easy way of pushing out the intermediaries. In clause 32-A,

[Sri R. Suryanarayana Rao] [31st March 1951]

Government have added a proviso, namely, 'Provided that the reduced rent payable to the landlord shall not be less than one-half of the reduced rent received by the intermediary from his tenant.' So, Sir, you are protecting the intermediary. I say, you have to protect the cultivating tenant as against the janmi. You are trying to protect the intermediary as against the janmi and the intermediary. Therefore, Sir, we are not fair to the janmi, because on account of the existence of this intermediary, he has to suffer.

Then, Sir, clause 32-B deals with the tenant's right to purchase the rights of the intermediary. But, it is hedged in with so many conditions that it is reduced almost to nil. The tenant will not be able to get rid of the intermediaries. Why should there be any reduction in rent payable by the intermediary to the janmi? The intermediary is getting enough from the cultivating tenant and he is fattening himself at the expense of both the janmi and the cultivating tenant. It is true that most of the intermediaries belong to the middle class or earning class. But why should we prop up a system which we are not having even in the ryotwari areas? At least in some cases there, the Government are thinking of abolishing these intermediaries. That is why, Sir, I move that clause 32-A is unnecessary; it need not be there and it may be omitted."

JANAB ABDUL LATIF FAROOKHI :—" I second it, Sir."

THE HON. SRI K. MADHAVA MENON :—" Sir, this clause has been put in by the Select Committee after considerable discussion. Sir, the intermediary will be losing more than perhaps half of what he has been getting before in view of the fixation of fair rent. The rent which the intermediary has to pay was one-third before and now it has been raised to half. So, the income of the intermediary will be reduced more than half of what it was before. He has to pay the rent direct to the landlord. Now, we have fixed the fair rent which he should get from the tenant. If it is less than the michavaram, he cannot pay it for obvious reasons. Where the amount that he gets is less than half of the michavaram, there must be a proportionate reduction of michavaram itself. That is why it is further provided that the reduced rent payable to the landlord shall not be less than one-half of the reduced rent received by the intermediary from his tenant. So, Sir, this is put in after considerable discussion in the Select Committee. It was not in the original Bill. So, Sir, I cannot accept the amendment."

MR. CHAIRMAN :—" The question is—

"Omit the proposed section 32-A."

The amendment was lost.

* SRI M. NARAYANA MENON :—" Sir, I move—

"In the new section 32-B for the words 'a price calculated at 20 times the difference between (a) the rent payable by the tenant to his intermediary and (b) that payable by the latter to his landlord', substitute the words 'the current market price of such rights'."

Sir, under section 32-B, one intermediary can purchase the rights of another intermediary by paying in certain circumstances a price

[Sri M. Narayana Menon] [31st March 1951]

calculated at twenty times the difference between the rent payable by the tenant to the intermediary and that payable by the latter to his landlord. This means, that if one intermediary has to pay the landlord Rs. 100, and if the tenant has to pay the intermediary Rs. 80, then, there is a difference of Rs. 20. Twenty times this difference will be payable by the tenant to the intermediary to get the rights. This provision is one which has not been fully considered by the Drafting Committee. An intermediary, whose rights are sought to be acquired by the tenant, might have built some building on the land or might have some kuzhikanam and other rights. Suppose the intermediary has built a beautiful house on that land or suppose he has a garden. If it is only twenty times the difference in rent that the tenant has to pay to the intermediary for acquiring the rights, he will not pay anything for the house or garden or any other right. Even if the intermediary goes to a court of law, the court will simply ask the tenant, according to this section, to give twenty times the difference in rent, and if the tenant pays twenty times, he gets not only the land but the building and everything else. I am sure my hon. Friend has introduced this provision here without considering the other existing rights of the intermediary. That is why I am moving this amendment, Sir, namely, that the tenant has to pay the current market price of such rights. In the example which I have given, if the tenant pays twenty times the difference, that is, twenty times Rs. 20, he will get the land together with the building and other improvements which the intermediary has effected in that land. Sir, I am not attacking the principle. I agree with the principle but in the valuation of the rights, in the calculation of the amount payable to the person, I want all these rights should be taken into consideration and that he should not be put to a loss. That is my amendment, Sir.

The amendment fell through for want of a seconder.

* SRI R. SURYANARAYANA RAO :— Sir, I move my amendment which is—

In the proposed main section 32-B, add at the end the words "or an amount equal to kanartham, whichever is less."

Sir, my amendment is intended to serve quite the opposite purpose. The Hon. the Minister has fixed a certain principle by which the intermediary's interests can be assessed. My object in moving the amendment, as I said, is this: We must make it possible to get rid of the intermediaries as soon as possible so that the janmi and the cultivating tenant alone will remain there and their relationship governed by the provision of this Act. For that purpose, we must make it as easy as possible for the cultivating tenant to acquire the interests of the intermediaries. Therefore, Sir, I have said, just as the kanam amount has to be paid by the kanamdar to the janmi if his interest is to be purchased, the kanartham amount may be paid by the cultivating tenant to the intermediate landlord, if his interest is to be purchased. I have said that twenty times the difference or the kanartham amount, whichever is less, may be paid for acquiring the rights. May I also move my other amendment, Sir, to which also the Hon. Minister cannot have much objection?

[31st March 1951]

MR. CHAIRMAN :— The hon. Member can move it separately."

The amendment was duly seconded.

THE HON. SRI K. MADHAVA MENON :— It is not fair, Sir. While Mr. Narayana Menon wants to give the current market rates, Mr. Suryanarayana Rao wants to give only the kanartham amount. Sir, the kanartham amount may be only eight annas or one rupee whereas the land may be worth lakhs. Mr. Suryanarayana Rao's proposal is, in this case, only to give him eight annas and be done with him altogether. We have provided twenty times the difference between the rent payable by the tenant to the intermediary and that payable by the latter to his landlord. Twenty times the kanartham has been fixed in order that it may include the value of the buildings, improvements and other things mentioned by Mr. Narayana Menon. But, if the tenant should pay only the kanartham amount to get possession of the land, then, it will not be fair at all, because the kanartham amount will be ridiculously low. So, Sir, I cannot accept the amendment."

MR. CHAIRMAN :— The question is—

In the proposed main section 32-B, add at the end the words "or an amount equal to kanartham whichever is less."

The amendment was lost.

SRI R. SURYANARAYANA RAO :— Sir, as the Hon. the Minister has said that he is not accepting my amendment relating to kanartham, the result will be that the tenant will be required to pay a fairly large amount in order to acquire the interests of the intermediary. Now, the Hon. Minister has provided a period beyond which the court cannot permit payment. Sir, he has suggested 12 instalments. I am suggesting 20 instalments. By this, the intermediary is not going to suffer, because he is going to get interest at 5½ per cent. My whole object is to enable the cultivating tenant to acquire the rights of the intermediaries quietly. Our object is to get rid of the intermediaries as early as possible and to assist that passage, this amendment is necessary. I would like the Hon. Minister, Sir, to consider the matter once again. After all, when the intermediary goes to the court, the court takes into consideration the economic conditions of the tenant. When once the intermediary goes to the court, the court may fix ten years, twelve years or fifteen years. The Government have fixed twelve instalments. I suggest twenty instalments. It is not going to affect the intermediary in any way. As the court will not increase the number of instalments if we fix it as twelve instalments, I suggest we ourselves fix it as twenty instalments. Of course, the rate of interest is already fixed there.

So, Sir, I move my amendment which is as follows :—
In the second proviso to proposed section 32-B, substitute the word "twenty" for the word "twelve."

[31st March 1951]

JANAB ABDUL LATIF FAROOKHI :—" I second the amendment, Sir."

THE HON. SRI K. MADHAVA MENON :—" Any tenant is allowed to purchase the rights of his superior landlord only in twelve instalments. It is easy for him to pay off in twelve annual instalments. If we make it twenty instalments, life may not be worth living. We cannot expect the intermediary to wait for twenty years. Therefore, Sir, I do not accept the amendment."

The amendment was put and lost.

3.30 p.m. SRI R. SURYANARAYANA RAO :—" Sir, I beg to move the following amendment :—

In clause 28, after the proposed section 32-B, add the following new section as 32-C :—

"32-C. At any time after the commencement of the Malabar Tenancy (Amendment) Act, 1951, an intermediary shall be bound, on the application of the tenant holding immediately under him, to sell all his rights in the holding for a price calculated at twenty times the difference between (a) the rent payable by the tenant to the intermediary and (b) that payable by the latter to the landlord or an amount equal to kanartham whichever is less."

Sir, I propose this new section to enable the cultivating tenant to acquire the rights of the intermediary. This sort of provision should find a place in any land reform legislation in modern days. At present under the new section 32-B proposed under clause 28, the intermediary must have defaulted continuously for a period of three years.

MR. CHAIRMAN :—" Here also you have got the words 'or an amount equal to kanartham whichever is less'. It may lead to certain absurd results."

* SRI R. SURYANARAYANA RAO :—" That has not been accepted. It has been thrown out. My main object is to enable the tenant to acquire the rights of the intermediary. For the Madras City Tenants' Protection Act, I brought forward an amending Bill, but it was thrown out, because the Government did not support it. Under the present Act, the tenant has got a right to purchase the rights of the landlord only when the landlord files a suit for eviction. Even if the tenant is in a position to purchase his rights, he cannot do it unless he provokes the landlord to institute a suit for eviction. I brought forward an amending Bill, but the Minister, Sri Kala Venkata Rao, did not accept it. That shows how conservative the Government are though they plead for land reform. The same point is involved here also. The tenant in Malabar need not wait and watch when the intermediary defaults, what is the period of the default, whether it is more than two months and so on. Will the poor cultivating tenant attend to the cultivation of his field or will he be watching how the intermediary is behaving? Do you want

31st March 1951] [Sri R. Suryanarayana Rao]

him to produce food or keep watch over the intermediary? (Interruption.) My hon. Friend Mr. Narayana Menon is both an intermediary and a janmi and so he speaks sometimes on behalf of the janmi and sometimes on behalf of the intermediary. (Sri M. Narayana Menon : "I am fair to both sides.") I wish he was also a cultivating tenant. Then he would be equally fair to him also. My object is to enable the tenant to acquire the rights of the intermediary whenever he wants by applying to the court. The court will fix the price according to the formula enunciated here. When the rights of the intermediary are acquired the relationship between the landlord and the tenant will be cordial."

The amendment was duly seconded.

THE HON. SRI K. MADHAVA MENON :—" Sir, we should not stretch certain principles, however good they may be, to the breaking point. It is true we want to do away with the intermediaries, because they do not in any way help but rather stand in the way of better cultivation of the lands. After this Act is passed, so far as the actual cultivator is concerned, it is immaterial to him whether there is an intermediary in existence or not, because we have provided that he cannot be evicted and we have fixed his share as 50 per cent of the net produce. When there is protection from eviction and when his share is fixed, it is immaterial to him whether the intermediary exists or not. Suppose the intermediary fails to pay the rent, we have said that the rights of the cultivating tenant should not be affected. We have given him the right to purchase the rights of the intermediary when he defaults. Sri Suryanarayana Rao wants that even when the intermediary does not default, the cultivating tenant should have the right to purchase his rights. There is no necessity to do this, because we have given security of tenure to the tenant and we have assured him his share. When the intermediary defaults, the cultivating tenant is given the right to purchase. In other cases, there is no necessity."

The amendment was put and lost.

Clause 28 was put and carried and allowed to stand part of the Bill.

Clause 29.

MR. CHAIRMAN :—" The motion is—

That clause 29 do stand part of the Bill."

* SRI R. SURYANARAYANA RAO :—" Sir, I beg to move the following amendment :—

"In the proposed section 38, after the words 'the current market price of such rights' insert the words 'or the value of such rights when they were first obtained, whichever is less'."

"Sir, this provision also is intended to help the tenant in the acquisition of the rights of kudiyruppu. The value of the kudiyruppu or the land pertaining to it might have risen in value, because the tenant has to improve it. When he wants to purchase

[Sri R. Suryanarayana Rao] [31st March 1951]

the landlord's rights, if the market value is to be paid, naturally the price will be very high. The improvements which have gone to increase the market value of the kudiyiruppu are all due to the tenant. (Dr. A. Lakshmanaswami Mudaliar: Not all.) In most cases it is so. I know what landlords do to our houses here. We have to whitewash them ourselves. I, therefore, suggest that the value of such rights when they were first obtained or the market value, whichever is less, should alone be paid when the rights have to be purchased. Perhaps when the land was first obtained, it was a piece of barren land with no compound and nothing on it. The tenant makes all the improvements. If, after some time, he wants to purchase the rights, if the market value of the rights has to be paid, what is to become of the poor tenant? The same principle which the Hon. Minister is applying in regard to the value of the land should be applied here also. The value that obtained when the land was originally taken was applied there. It is but fair to ask that in the case of kudiyiruppus also, the same principle should be applied. It is not fair to ask for the payment of the market value which will be much more than the value of the land at the time when it was originally taken, especially in those days when the price of land has gone up very high. The price of even the worst piece of land has gone up. Therefore my object in introducing the words "or the value of such rights when they were first obtained, whichever is less" is to enable the tenant to become the owner of the property where the kudiyiruppu is concerned."

JANAB K. UPPI:—"I second the amendment."

THE HON. SRI K. MADHAVA MENON:—"Sir, I am really surprised that Janab Uppi Sahib, himself a landlord, should second the amendment. I want him to understand the implications of the amendment. The approximate English translation of 'kudiyiruppu' is homestead. We have given absolute fixity in the case of all homesteads. There is no question of evicting a person from a homestead for the landlord's own purposes of cultivation or residence. Absolute fixity is given in regard to a homestead. There is no necessity for the holder of a homestead to purchase the landlord's right at all. He must either be a vain fool who wants to purchase that right or he does not understand things. The land belongs to the landlord and the tenant has built his house and he is living there. He can never be evicted from it. He has only to pay his rent regularly and there is no necessity for him to purchase the landlord's right. If the tenant, however, wants to indulge in the luxury of himself being the landlord, we say that he must pay the current market value of the land. Sri Suryanarayana Rao's amendment is that it should be the current market value or the value of the land when it was originally obtained, whichever is less. Let us suppose a landlord leased a piece of land fifty years ago for a homestead and that a tenant has constructed a house and is living there. Imagine the price to-day, after fifty years. If the tenant is not satisfied with unqualified fixity of tenure and if he wants to be the landlord himself, is it not fair that he should pay for it? Sri Suryanarayana Rao says that if the value of the land was only Rs. 100 then and if it is

[31st March 1951] [Sri K. Madhava Menon]

a lakh of rupees now, the tenant need pay only Rs. 100. That will be very very unfair, especially as the right is only a luxury. To say that the tenant need pay only the value of the land at the time it was originally leased is something not very correct. However much I may be in favour of the tenant, I do not think I can accept the amendment."

The amendment was put and lost.

SRI R. SURYANARAYANA RAO:—"Sir, I beg to move the following amendment:—

In the proviso to proposed section 33, substitute the word "twenty" for the word "twelve".

"Sir, now that the Hon. Minister has not accepted my other amendment, it is all the more necessary that I should ask him to increase the number of instalments for the payment of the value of the land at the current market rates, which will be much higher than the price at which he first obtained his rights."

MR. CHAIRMAN:—"Does not the hon. Member think that it is all mere academical? Nobody is going to purchase such rights."

SRI R. SURYANARAYANA RAO:—"It is not academical, Sir. The ownership of a house or land in the villages is very much valued on sentimental and sacred grounds. We are all anxious to have a house of our own. How has Gandhinagar been so successful to-day? It is because everybody wanted to possess a house."

THE HON. SRI K. MADHAVA MENON:—"Even now the house is his."

SRI R. SURYANARAYANA RAO:—"He is only a tenant who cannot be evicted. Under the Rent Control Act we cannot all be evicted from our rented houses under certain conditions. Are we satisfied with the rented houses in which we are living? We would like to possess houses of our own if we can. In the same way the poor kudiyiruppu holder may like to possess a house of his own without the encumbrance of the landlord giving him trouble by pin-pricks in so many ways. I want to make it easy for the kudiyiruppu holder to purchase the rights of the landlord by making the instalments twenty, especially because he has now to pay the current market price."

JANAB ABDUL LATIF FAROOKHI:—"I second the amendment."

THE HON. SRI K. MADHAVA MENON:—"I cannot accept the amendment."

The amendment was put and lost.

SRI M. NARAYANA MENON:—"Sir, I want to move the following amendment."

MR. CHAIRMAN:—"Has the hon. Member made himself sure that anybody is prepared to second his amendment?"

[31st March 1951]

* SRI M. NARAYANA MENON :—" I have not asked anybody to second it. If anybody is willing to second it, it will be helpful to me. If not, I will only have the amendment moved."

MR. CHAIRMAN :—" The hon. Member may save trouble all round by making himself sure of it."

* SRI M. NARAYANA MENON :—" I move, Sir, the following amendment :—

In the proposed new section 34 (1), for the proviso, substitute the following :—

" Provided that the landlord shall before obtaining the kudiyruppu pay to the transferee or person claiming under him the consideration if any paid by the transferee or the market value of the transferor's rights on the date of the transfer, whichever is less together with the value of the improvements, if any, effected in the kudiyruppu bona fide between the date of the transfer and the date of the suit."

" When a kudiyruppu holder transfers his right to a third party, not for the purpose of a kudiyruppu but for something else like a commercial purpose, the landlord is given the first right to purchase that right. So far as the principle is concerned, I agree with it. But what is the amount to be paid? The proviso to section 34 (1) says—

' Provided that the landlord shall, before obtaining possession of the kudiyruppu, pay to the transferee or person claiming under him, the consideration, if any, paid by the transferee and also the value of the improvements, if any, effected in the kudiyruppu bona fide between the date of the transfer and the date of the suit.'

The landlord is bound to pay the consideration paid by the transferee and the value of any building or any other structure which he might have put up bona fide after purchasing the kudiyruppu. My objection to this is this. Sometimes there may be a fraud underlying the transfer of the right of the kudiyruppu holder to a third party. The man may have received only Rs. 100 or Rs. 200 but the document may show Rs. 1,000 or Rs. 2,000 and thereby compel the landlord to pay Rs. 1,000 or Rs. 2,000. There might be a fraud involved in this. Therefore my amendment says that the amount to be paid by the landlord for the purchase of the kudiyruppu is either the consideration paid by the transferee or the market value of the transferor's rights on the date of the transfer whichever is less, together with the value of the improvements effected after the purchase. If the market value of the transferor's right is less, the landlord need pay only that. If the consideration is less, the landlord need pay only that. Then the landlord will not be defrauded by the kudiyruppu holder and the purchaser of the kudiyruppu right. In order to see that the landlord is not defrauded, I have introduced this amendment. I move the amendment."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second the amendment."

[31st March 1951]

THE HON. SRI K. MADHAVA MENON :—" Sir, I oppose the amendment. The unqualified fixity that is given for homesteads is because of the sacredness of the homesteads. We do want on that ground to prevent the landholder from evicting the tenant and if he purchases a homestead, it is because of the idea of sanctity attaching to it. But, if the homestead is not used as a homestead, the landlord can take possession of it on payment of the consideration that the transferee has paid. But, Mr. Narayana Menon says that the landlord shall pay only the amount of consideration paid by the transferee or the market value, whichever is less. Suppose, for the purpose of playing a trick on the landlord, the person says, even though he has received Rs. 5,000, he has received only Rs. 500, the landlord has to pay that amount and no more. It is not so. The landlord who actually purchases the kudiyruppu must pay to the transferee or person claiming under him, the consideration, paid by the transferee and no less. So, I oppose the amendment, Sir."

MR. CHAIRMAN :—" The question is—

In the proposed new section 34 (1), for the proviso, substitute the following :—

" Provided that the landlord shall before obtaining the kudiyruppu pay to the transferee or person claiming under him the consideration if any, paid by the transferee or the market value of the transferor's rights on the date of the transfer, whichever is less, together with the value of the improvements, if any, effected in the kudiyruppu bona fide between the date of the transfer and the date of the suit."

The amendment was lost.

Clause 29 was put and carried and allowed to stand part of the Bill.

but before the Bill

Clause 30.

* SRI M. NARAYANA MENON :—" Sir, I move—

' After the proposed section 39 (1), insert the following as section 39 (1) (a) :—

" 39 (1) (a). Where the tenant sells his interests in the holding or in any portion thereof the landlord above him shall have the right of pre-emption."

" Sir, it is a question of pre-emptive right. If a tenant sells his right, the landlord just above him should be given the right of purchase, that is the right of pre-emption. Otherwise, the landlord will have to come into contact sometimes with undesirable elements. That is to say, a person may part with property not only for his own benefit but for ruining of the landlord as well. For instance, he may put it in the hands of a rowdy or a man who may not care for morals. Such things should be avoided. Therefore, I suggest that the landlord should have the power to purchase the right of a person who sells away his right. That is the purpose of my amendment."

[31st March 1951]

SRI M. D. T. KUMARASWAMI MUDALIYAR :—“ I second the amendment, Sir.”

THE HON. SRI K. MADHAVA MENON :—“ Sir, I object to the amendment. This question was considered at length in the Select Committee where the hon. Member raised the same proposition. There are certain leases where if a person wants to sell his property, the first opportunity is given to mortgagees, in the case of mortgages known as ‘otthi’. That is, preference is generally given to the mortgagee. But, what Mr. Narayana Menon says is, if a tenant wants to sell the land, he must first give preference to the landlord. In all cases where pre-emption is provided the value of property is considerably reduced. If I want to sell my property, and if I have always to think of pre-emption, I cannot have the bargaining power. It cannot work in practice. For instance, I tell my landlord, I have an offer for Rs. 50,000; are you prepared to pay it? It may be that the property may not be worth even Rs. 20,000. It will practically be blackmailing the landlord. In all these matters, time is of the essence and if it is not purchased in time he cannot get money, because pre-emption always reduces the value of the property and it is not also advantageous to anybody. Therefore, I cannot accept the amendment.”

MR. CHAIRMAN :—“ The question is—

After the proposed section 39 (1) insert the following, as 39 (1) (a) :—

“ 39. (1) (a). Where the tenant sells his interests in the holding or in any portion thereof the landlord above him shall have the right of pre-emption.”

The amendment was declared lost. A poll was demanded and the House divided thus—

Ayes.

- | | |
|---------------------------------------|------------------------------|
| 1 Janab Abdul Latif Facookhi. | 5 Sri R. Sanyaswaraya Rao. |
| 2 Sri M. D. T. Kumaraswami Mudaliyar. | 6 „ B. Narayanaswami Nayudu. |
| 3 Dr. A. Lakshmanaswami Mudaliyar. | 7 „ D. Manjappa Hegde. |
| 4 Sri A. Gopalakrishna. | 8 Janab K. Uppl. |

Noes.

- | | |
|----------------------------------|---------------------------------|
| 1 The Hon. Sri K. Madhava Menon. | 6 Sri M. Narayana Rao. |
| 2 The Hon. Mr. J. L. P. Roche. | 7 N. Venkateswarama. |
| 3 Sri K. Venkateswami Nayudu. | 8 S. Jayaram Reddy. |
| 4 „ S. K. Madhava Mudaliyar. | 9 Mrs. M. Hensman. |
| 5 „ P. Veerabhadraswami. | 10 Sri N. Ramji Reddy. |
| | 11 Janab K. Mahamud Rahimswami. |

Neutral.

- 1 Sri M. Narayana Menon.

Eight hon. Members voted for the motion and eleven against. The amendment was lost.

[31st March 1951]

JANAB K. UPPI :—“ Sir, on a point of order. Is it open to an hon. Member who moves an amendment to remain neutral and is it in order for the House to consider such an amendment and vote on it? ”

MR. CHAIRMAN :—“ The hon. Member found the mover of the amendment sitting only at the time of voting.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ May I point out, Sir, that the hon. Member was probably convinced after the reply of the Government that he felt it not necessary to vote for his own amendment? ”

MR. CHAIRMAN :—“ There is no point of order in it and there is no compulsion on anybody to vote in any particular manner. The well-accepted principle is, there is nothing wrong in a Member making a motion not voting for it.”

(At this stage the Hon. Dr. T. S. S. Rajan entered the House amidst applause.)

MR. CHAIRMAN :—“ I suppose the House would be glad to see the legitimate Leader of the House back again.”

THE HON. DR. T. S. S. RAJAN :—“ I doubt whether the question of legitimacy was ever discussed at all.”

* SRI M. NARAYANA MENON :—“ Sir, I move the following amendment that stands in my name, namely :—

“ To the proposed section 39 (2), add the following proviso :—

“ Provided that such transfer or devolution by operation of law shall not affect the security for the payment of rent due from the holding.”

“ Sir, if a tenant's right is divided among several persons, that must be acknowledged to be binding upon all whatever may be the difficulty in payment of the dues to the landlord, who may have to collect the same in fractions from various persons. Such difficult circumstances are brought about by the section. For instance, if a land is divided into various portions, the landlord will have to collect the michavaram, etc., from several persons at the rate of 2 paras of paddy or Re. 1, Rs. 2 or Rs. 5 as the case may be. Sometimes difficulties might crop up and by some manipulation the land may be divided in such a manner as to make one part too small or negligible and the other part manipulated in such a way as to make it free with regard to liability to pay. So, if the landlord is bound to acknowledge such a position and tries to collect the dues from these persons then the landlord may not get anything at all. So, Sir, this will lead to various difficulties. Therefore, I say that the landlord may be saved from such difficulties by accepting my amendment, so that the landlord may be enabled to collect his entire dues from all the persons put together and not be made to proceed against the various tenants in fractions. That is the purport of my amendment. Otherwise, all the

[Sri M. Narayana Menon] [31st March 1951]

landlords will be ruined easily and I want that they should be protected against that. I hope the House will accept my amendment."

MR. CHAIRMAN:—"The amendment is not seconded and therefore it falls through."

Clause 30 was put and carried and allowed to stand part of the Bill.

4 p.m. Clauses 31, 32, 33, 34 and 35 were put and carried and allowed to stand part of the Bill.

Clause 36.

THE HON. SRI K. MADHAVA MENON:—"Mr. Chairman, Sir, I beg to move—

"(i) Between the words "a cultivating tenant" and the words "shall be entitled to continue on the holding as such" insert the words "or the holder of a kudiyruppu", and

"(ii) after the words "applicable to a cultivating tenant" add the words "or the holder of a kudiyruppu, as the case may be".

Sir, a doubt was raised whether it was our intention to extinguish the right of the holder of a kudiyruppu when the right of his immediate landlord or superior landlord is extinguished. Sir, it is our intention not to keep his right in doubt. We want to see that his right is not extinguished and hence this amendment."

* SRI R. SURYANARAYANA RAO:—"Sir, I am against the principle of clause 44-A. Sir, this subject came up for discussion before the Select Committee and we suggested that the new section should read—

"Notwithstanding anything contained in the Transfer of Property Act, 1882, or in any other law for the time being in force or in any contract, a cultivating tenant shall be entitled to continue on the holding as such, although a mortgage executed in his favour or in favour of his landlord or of any superior landlord has been redeemed, subject, however, to a liability to pay fair rent and to the provisions of this Act applicable to a cultivating tenant."

At that time a doubt was raised by one of the members about the position of the cultivating tenant and so it was said that it would be better to make express provision that even if an intermediary is evicted the position of the cultivating tenant would be secure. On that principle we agreed to this clause, because the main intention of this Bill is that the cultivating tenant should continue to be in possession and cultivate the land, although the rights of his immediate landlord are extinguished by eviction or by redemption of the mortgage or otherwise. So I do not understand why these words are sought to be introduced. I am not a lawyer, and I do not know whether the use of these words is going to extend or curtail the rights of the cultivating tenants."

THE HON. SRI K. MADHAVA MENON:—"It extends."

31st March 1951]

SRI R. SURYANARAYANA RAO:—"If so, to what extent, does it extend? Our object is to see that the position of the cultivating tenant is secured, whatever happens to the immediate landlord or the superior landlord. I want to know what the purpose of the Hon. Minister is in adding these words; whether it is meant to satisfy the objection raised by one member of the Select Committee or whether it in any way curtails the right of the landlord which we have legitimately given him under the 1945 Act. So, I move—

"In the proposed section 44-A omit the words "whether by eviction or" and "or otherwise"."

THE HON. SRI K. MADHAVA MENON:—"Sir, if we are to accept the suggestion of Mr. Suryanarayana Rao, it will defeat the very purpose of this Bill. The whole idea behind this Bill is to secure the security of tenure to the cultivating tenant. If a landlord wants to redeem his mortgage, he will have to evict all those who are squatting on the property. The kanamdar may not be in possession. It may be a verumpattamdar is in possession of the property. So in a suit for redemption all those who have, what is called a privity of contract, in law, should be made parties to the suit. So, in that case, the cultivating tenant also will have to be ousted; for the landlord may say he wants to cultivate the land himself. But we do not want to see that the cultivating tenant is evicted. He should be secured his security of tenure. That is why, Sir, we have used the word "otherwise", after the word "mortgage".

SRI R. SURYANARAYANA RAO:—"I do not press my amendment."

The amendment was by leave withdrawn.

* SRI M. NARAYANA MENON:—"Mr. Chairman, Sir, I beg to move—

"In section 44-A, for the word "mortgage" insert the word "kanam"."

Sir, I think we have discussed the position of the cultivating tenant on the extinction of the landlord's rights. But suppose there is a mortgagee with possession. If the mortgage is extinguished, should not the mortgagee put the mortgagor in possession of his property? That is so under the Transfer of Property Act. But under the present Clause, the usufructuary mortgagee is not liable to put the mortgagor in possession of his land even though the mortgage is redeemed. But, Sir, I have no objection to apply the present clause to kanams. I only want that this clause should not apply to usufructuary mortgages. For, let me tell the House what will happen. Suppose the mortgagor wants to redeem his mortgage and wishes to raise money on the property to be redeemed, it would be difficult for him to get money, as there is

[Sri M. Narayana Menon] [31st March 1951]

no security for the money. Therefore I submit 'mortgage' should be taken away from this clause, and instead of that, you can put 'kanam' there. I think the mortgagee should not be given a handle to inflict injury on the mortgagor. So I request my amendment may be accepted."

The amendment fell through for want of a seconder.

* SRI M. NARAYANA MENON :—" Mr. Chairman, Sir, I beg to move—

'Add the following proviso at the end of the new section 44-A :—

"Provided that this section shall not be applicable to cases where the landlord sues for eviction or redemption of a kanam under the provisions of the sub-clauses (5), (6) and (7) of sections 14 and 20 of the Act."

Sir, I move this amendment only to make the principle clear. Because some doubt was expressed in some quarters about the applicability of this section to kanam. So, to make it clear that this section shall not be applicable to cases where the landlord sues for eviction or redemption of kanam under the provisions of sub-clauses (5), (6) and (7) of sections 14 and 20, I move my amendment. Then again suppose the landlord wants to sue the kanamdar to evict him as he wants to cultivate the land himself and that he wants to manage the property himself. When such a suit is brought, then the cultivating tenant should be compelled to surrender the holding. Otherwise the landlord will have to sue the cultivating tenant once and the kanamdar once for getting possession of his land. That trouble should be avoided by bringing the two parties in one and the same suit. That is why I have brought this amendment."

The amendment fell through for want of a seconder.

MR. CHAIRMAN :—" I shall now put the Government amendment to the vote of the House. The question is—

(i) Between the words "a cultivating tenant" and the words "shall be entitled to continue on the holding as such" insert the words "or the holder of a kudiyiruppu", and

(ii) after the words "applicable to a cultivating tenant" add the words "or the holder of a kudiyiruppu, as the case may be."

The amendment was carried.

Clause 36, as amended was put to vote and carried and allowed to stand part of the Bill.

Clauses 37, 38, 39, 40 and 41 were put and carried and allowed to stand part of the Bill.

31st March 1951]

Clause 42.

THE HON. SRI K. MADHAVA MENON :—" Mr. Chairman Sir, I beg to move—

In new section 42-A (1), for the whole of the Explanation ending with the words "of the Improvements Act", substitute the following :—

"Explanation.—For the purposes of the foregoing proviso, the janmi's rights in the holding shall be valued—

(i) in the case of a transaction subsisting on the date of the commencement of the Malabar Tenancy Act, 1929, at twenty times the excess of (a) the annual fair rent of the holding as payable on that date under that Act over (b) the annual assessment then payable thereon;

(ii) in the case of a transaction entered into after such commencement and before the date of the commencement of the Malabar Tenancy (Amendment) Act, 1951, at twenty times the excess of (a) the annual fair rent of the holding as payable under the Malabar Tenancy Act, 1929, on the date of the transaction over (b) the annual assessment then payable thereon;

(iii) in the case of a transaction entered into on or after the date of the commencement of the Malabar Tenancy (Amendment) Act, 1951, if and to the extent the transaction relates to wet land, at thirty times the excess of (a) the annual fair rent of the holding as payable on the date of the transaction under the Malabar Tenancy Act, 1929, as amended by the Amendment Act aforesaid over (b) the annual assessment then payable thereon, and if and to the extent the transaction relates to garden or dry land, at twenty-five times such excess."

Sir, this is only the same amendment which I moved under Clause 15, making the landlord's position secure. Because there was some doubt about it, the whole Clause has been redrafted. This is exactly word for word a reproduction of Clause 15, which we have already adopted with reference to Clause 15 to make the intention of Government clear beyond doubt."

MR. CHAIRMAN :—" The question is—

In new section 52-A (1), for the whole of the Explanation ending with the words "of the Improvements Act", substitute the following :—

"Explanation.—For the purposes of the foregoing proviso, the janmi's rights in the holding shall be valued—

(i) in the case of a transaction subsisting on the date of the commencement of the Malabar Tenancy Act, 1929, at twenty times the excess of (a) the annual fair rent of the holding as payable on that date under that Act over (b) the annual assessment then payable thereon;

[Mr. Chairman] [31st March 1951]

(ii) in the case of a transaction entered into after such commencement and before the date of the commencement of the Malabar Tenancy (Amendment) Act, 1951, at twenty times the excess of (a) the annual fair rent of the holding as payable under the Malabar Tenancy Act, 1929, on the date of the transaction over (b) the annual assessment then payable thereon;

(iii) in the case of a transaction entered into on or after the date of the commencement of the Malabar Tenancy (Amendment) Act, 1951, if and to the extent the transaction relates to wet land, at thirty times the excess of (a) the annual fair rent of the holding as payable on the date of the transaction under the Malabar Tenancy Act, 1929, as amended by the Amendment Act aforesaid over (b) the annual assessment then payable thereon, and if and to the extent the transaction relates to garden or dry land, at twenty-five times such excess."

The amendment was carried.

4-15 p.m. SRI R. SURYANARAYANA RAO:—"Sir, I move—

"In the proposal section 52-B (1) after the words 'forest land' insert the words 'useful for agricultural purposes'."

MR. CHAIRMAN:—"There is another amendment of the hon. Member which must be moved before this."

SRI R. SURYANARAYANA RAO:—"I am not moving that."

"The amendment which I have moved was carried in the Joint Select Committee. I do not know why it has not been embodied in the Bill."

JANAB K. UPPI:—"I second the amendment."

THE HON. SRI K. MADHAVA MENON:—"Sir, there is no need for this amendment. I think I explained the reason when I introduced in this House the Bill as passed by the Assembly. There is what is called punam cultivation in Malabar. It is known as kumri cultivation in South Kanara. Forest trees are burnt and the land cleared and utilized for cultivation. Some say it is very harmful because there is denudation of forests. Anyway, there is a large area under such cultivation. For two or three years, the landlords refused to give their land for such cultivation. During those years the Collectors were able to persuade them to give the land. To have legislative sanction for the Government to interfere, it is provided, that the Government or an authorized officer may require the landlord of any waste or forest land to lease it for agricultural purposes. The Collector or any other Government officer will order the lease of the land only if it is fit for agricultural purposes. An amendment which I am going to move provides that the landlord shall be given a reasonable opportunity either to cultivate the land himself or to lease it out for agricultural purposes before any such order is passed. The risk involved is removed by that amendment."

31st March 1951]

SRI R. SURYANARAYANA RAO:—"The suggestion to add the words 'useful for agricultural purposes' was made in the Joint Select Committee to avoid the possibility of local officers not using their discretion properly. The Hon. Minister accepted it and it was carried. All that I am anxious is that any kind of land should not be ordered to be cultivated."

MR. CHAIRMAN:—"To lease 'waste or forest land for agricultural purposes' means only land which is suitable for agricultural purposes."

SRI R. SURYANARAYANA RAO:—"The officers may give a different interpretation. If the position is made clear in the rules, I shall be satisfied. On the assurance given by the Hon. Minister, I ask leave of the House to withdraw my amendment."

The amendment was by leave withdrawn.

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

"In new section 52-A (2), add the following words at the end of the first sentence:—

"of the Subordinate Judge's Court having jurisdiction over the area in which the holding is situate."

"In a former clause we have used the same language. The amendment only makes the position quite clear. By mistake, I accepted in the Assembly an amendment to omit these words."

MR. CHAIRMAN:—"The Hon. Minister can move the other amendment also."

THE HON. SRI K. MADHAVA MENON:—"Yes, Sir. I move—

"To new section 52-B (1), add the following proviso:—

"Provided that no such order shall be passed without giving the landlord a reasonable opportunity either to cultivate such land himself or to lease it out for agricultural purposes."

"The object of the Government is that the land should be cultivated. An opportunity is first given to the landlord to cultivate the land himself or lease it out for cultivation. Only when he does not utilize the opportunity, the Government will interfere."

MR. CHAIRMAN:—"Motion moved."

(1) In new section 52-A (2), add the following words at the end of the first sentence:—

"of the Subordinate Judge's Court having jurisdiction over the area in which the holding is situate."

(2) To new section 52-B (1), add the following proviso:—

"Provided that no such order shall be passed without giving the landlord a reasonable opportunity either to cultivate such land himself or to lease it out for agricultural purposes."

[31st March 1951]

SRI B. NARAYANASWAMI NAYUDU :—“ Mr. Chairman, Sir, according to section 52-B, the State Government or an authorized officer can order a landlord of any waste or forest land to lease it for agricultural purposes and, if he fails to comply with the order, the officer issuing the order may lease the land on behalf of the landlord. The verumpattamdar on any waste or forest land will get fixity of tenure in respect of it. Fixity of tenure is a heritable and alienable right. He can sell, mortgage or lease his right. I am not quite sure about the position and I speak subject to correction. If this position is correct, suppose the first verumpattamdar does not cultivate the land himself but gives it to another person for cultivation. Then, does not the second person become the verumpattamdar in respect of that land? If so, does the first verumpattamdar drop out of the picture? What is his position? Is he liable to be served with an order under section 52-B? When he ceases to be a cultivating verumpattamdar, why should not the right to lease the land vest in the janmi instead of in him? If the janmi is not given that right, it is a serious inroad on the right to possess private property.

“ Or, does the occupancy right of the verumpattamdar continue only so long as he cultivates the land? Has he no right to transfer that right if he does not cultivate the land himself?

“ The answers to these questions form the crux of this legislation.”

MR. CHAIRMAN :—“ The points raised are not relevant to the amendments. The hon. Member should have raised them when I put the Clause as amended. I will put the amendments to vote. The question is—

(1) In new section 52-A (2), add the following words at the end of the first sentence :—

“ of the Subordinate Judge's Court, having jurisdiction over the area in which the holding is situated.”

(2) To new section 52-B (1), add the following proviso :—

“ Provided that no such order shall be passed without giving the landlord a reasonable opportunity either to cultivate such land himself or to lease it out for agricultural purposes.”

The amendments were carried.

MR. CHAIRMAN :—“ The clause as amended is now before the House for discussion.”

SRI R. SURYANARAYANA RAO :—“ What about my amendment No. 5 to clause 42?”

MR. CHAIRMAN :—“ When I asked the hon. Member, he said that he was not moving it.”

R. SURYANARAYANA RAO :—“ The section specifically at the lease shall be for a term. The term may be three

[31st March 1951] [Sri R. Suryanarayana Rao]

years or five years. The lease is only for a temporary period. All the verumpattam or other rights accruing in respect of a holding under the land tenure system of Malabar will not accrue in respect of temporary leases. If this position is correct, the points raised by Sri Narayanaswami Nayudu do not arise. Otherwise, it is a serious inroad on the rights of the landlord as was pointed out by him.”

SRI B. NARAYANASWAMI NAYUDU :—“ Term or no term, the cultivating tenant gets fixity of tenure under section 10.”

THE HON. SRI K. MADHAVA MENON :—“ I do not agree with hon. Members, Messrs. Narayana Menon and Narayanaswami Nayudu that all the incidents of a verumpattam lease should apply. These are in the nature of shifting cultivation. In one year if they are cultivated, for two or three years thereafter, they cannot be cultivated. To give fixity of tenure to the tenants will mean doing the greatest amount of harm. That is why in all other kinds of leases, there is no question of term or condition. These are not wet lands. They are forest lands. In the case of forest lands or waste lands we have stated that such officer as the Government may authorize in this behalf may, by order, require the landlord to lease it for agricultural purposes to such person, for such term, subject to such conditions and within such time as may be specified in the order. It will be open to the tenant to relinquish the land, because this is the nature of shifting cultivation. For purposes of rent the lease shall be the same as other kinds of lease.”

4-30
p.m.

Clause 42, as amended, was put and carried and allowed to stand part of the Bill.

Clauses 43, 44 and 45 were put and carried and allowed to stand part of the Bill.

Clause 46.

MR. CHAIRMAN :—“ The motion is—

“ That clause 46 do stand part of the Bill.”

THE HON. SRI K. MADHAVA MENON :—“ Sir, I move my amendment to clause 46, sub-clause (iii) (b), namely—

“ In line 3 of the proviso, after the word “rent”, insert the words “or otherwise in respect of the tenancy.”

Sir, there may be damages also. The landlord sues for the eviction of the intermediary. The position now is against all the dues of the intermediary and any damages caused by the intermediary, all the valuable improvements effected by the cultivating tenant are set off. We want to protect the value of the improvements effected by the actual cultivator. If we say only rent, other things like damages will not be covered. That is the reason for the amendment.”

[31st March 1951]

MR. CHAIRMAN :—“ The question is—

“ In line 3 of the proviso, after the word “rent”, insert the words “or otherwise in respect of the tenancy.”

The amendment was carried.

Clause 46, as amended, was put and carried and allowed to stand part of the Bill.

Clauses 47, 48, 49, 50, 51 and 52 were put and carried and allowed to stand part of the Bill.

Clause 53.

MR. CHAIRMAN :—“ The motion is—

“ That clause 53 do stand part of the Bill.”

* SRI M. NARAYANA MENON :—“ Sir, I move—

“ In clause 53, delete the words “or such further time as the Collector may from time to time allow in respect of the land situated in any tract or village.”

“ Add at the end of the clause the following :—

“ In excess of the assessment of the holding for any such year which the landlord has paid to the Government.”

Sir, clause 53 deals with the wiping off of the arrears of rent. This process was adopted in the first Agriculturists' Relief Act, again in the other Agriculturists' Relief Act, and this is the third time when in this Bill arrears are sought to be wiped out. (Sri B. Narayanaswami Nayudu : “ This is the fourth Act—there is the zamindari abolition.”) So far as Malabar is concerned this is another provision for the wiping off of arrears. Under this Bill if arrears from 1944-45 to 1949-50 are paid—not calculated according to the Act but according to this Bill, under which rent will be very much reduced—within a period of 12 months from the commencement of this Act, arrears in respect of any previous year or years will be wiped out. Under this clause the tenant is given 12 months' time from the commencement of this Act to clear off his arrears. If he pays the arrears within that time, he is absolved. But what I object to is the further time which the Collector may give. It is not 12 months. The Collector may give still further time. The Legislature gives 12 months' time. But the Collector can extend that time. No limit is fixed for the extension of time. It may be ten years or more. My first amendment seeks to take away the extension of time which the Collector is allowed to give. This power must be taken away. My second amendment seeks to do this, namely, when arrears are wiped out, one thing must be remembered. That is : Has the landlord paid the revenue to the Government in respect of those years? If the rent is to be wiped out, the landlord who has paid the revenue to Government suffers more in that he not only not got rent but has paid the revenue. To the extent that the landlord has paid revenue to Government, rent due from the tenant should not be wiped out. The amount paid by the landlord as revenue should be recoverable from the tenant. This is my second amendment.”

31st March 1951]

The amendment fell through for want of a seconder.

Clause 53 was put and carried and allowed to stand part of the Bill.

Clauses 54 and 55 were put and carried and allowed to stand part of the Bill.

The Schedule was put and carried and allowed to stand part of the Bill.

Clause 1 was put and carried and allowed to stand part of the Bill.

The Preamble was put and carried and allowed to stand part of the Bill.

THE HON. SRI K. MADHAVA MENON :—“ Sir, I move—

“ That the Bill as amended be read a third time and passed.”

Sir, I am grateful to the House for having considered this Bill. I may say that a much larger number of amendments have been moved in this House to this Bill than in the other House. As I said in introducing the Bill, the cardinal principle of the Bill is to give fixity of tenure to the cultivating tenant and to give him a fair share. This share we have put at 50 per cent of the net produce. We have also given absolute fixity in the case of kudi-yiruppu or homestead holder. These are the main cardinal principles. These, I am sure, will give considerable encouragement and relief to all the tenants in Malabar. The landlords and intermediaries do stand to suffer to some extent. The renewal fee, which was, according to me, an exaction, was according to others a deferred payment of rent. This renewal fee has been a source of considerable trouble and discontent in Malabar, and we have now done away with it. The fate of the middle class intermediary, who does not cultivate, will be considerably bad. It will be wrong to assume that all kanamdars are intermediaries. A good percentage of them, over 40 per cent, are cultivating kanamdars. These do not stand to suffer. But non-cultivating kanamdars who are intermediaries will suffer considerably, because the fair rent that we have fixed will be much less than what they were getting from the tenant before. That is only right, because there must be a limit to a person living on another's labour and expense. It is in this view that I justify my stand. On three or four matters, there has been considerable agitation. The landlords feel the abolition of the renewal fee very much. They also feel that the fixation of 50 per cent of the net produce as the share of the tenant is not fair. Some of the tenants were prepared to go even to the extent of giving the landlords a year's fair rent as renewal fee and reducing the fair rent from 50 to 45 per cent of the net produce, provided they (tenants) got unqualified fixity of tenure. Even people who have been pleading the cause of tenants were prepared to pay the renewal fee, and pay a higher rent to the landlords if only they (tenants) could get unqualified fixity of tenure.

[Sri K. Madhava Menon] [31st March 1951]

4-45 p.m. "We have given fixity of tenure subject to the condition that the landlord can evict the tenant for *bona fide* purposes, i.e., if he wants to cultivate the land for the maintenance of himself or the members of his family. It was said that a number of partitions had taken place and that, therefore, there might be a number of evictions by the landlords on the ground that they required the land for their own maintenance. Therefore, it was suggested that even the share of the tenant might be reduced if unqualified fixity of tenure was given. Sir, when tentative proposals were framed, the idea of the Government was to provide for unqualified fixity of tenure. In the Bill as published at first, we had provided that even in cases where the landlord required the land for the maintenance of himself or the members of his family, there must be at least 5 acres of land left with the tenant and that option should be exercised in five years. But I was definitely told by Legal Advisers that giving of unqualified fixity of tenure like that would offend against the provisions of Articles 14 and 19 of the Constitution and that the entire Bill would be jeopardized. That is my excuse why the Government could not accept the position that unqualified and absolute fixity should be given to the tenants and that no sort of evictions should be allowed. There was a doubtful feeling in Malabar about fixity of tenure in the case of cheris. Practically there are no cheris in Malabar. A little Harijan hut is an independent house as any other house. There is no doubt that every hut like that is a homestead and, therefore, there will be fixity.

"Regarding ulkudi and kudikidappu, we have said that for the time being, it will not be applicable to the whole of Malabar but will apply only to Cochin where the problem is very severe. In the northern portions of Malabar, it is not so severe. So, the provisions will be applicable only to those places which the Government may specify by notification. This notification will be issued taking into consideration the evictions that take place.

"The hon. Gentleman, Sri Narayanaswami Nayudu, wanted to know what the position of the verumpattamdar was, under this Bill, with regard to fixity of tenure, and whether the land was alienable. What he says is, 'If the verumpattamdar can do it, why not the landlord himself do it?' Sir, one of the main objects of the Bill is to give fixity of tenure to verumpattamdar who is the actual cultivator. 'Verumpattamdar' means one who cultivates all wet lands. (Sri B. Narayanaswami Nayudu: 'Garden lands and dry lands also may be included.') Yes, the original definition of 'verumpattamdar' was that the holding must include wet lands, and might or might not include other lands. We have changed that definition and, therefore, it will now include garden and dry lands also. Now, the very object of this Bill is to give fixity of tenure to the verumpattamdar. It is for him that this Bill is sought to be passed and not for anybody else. It is for this purpose and for giving a fair share of the rent to him who is responsible for production that this Bill has been brought forward. It is true that even if the lease is only one year old, that man will get fixity as long as he pays the fair rent and complies with

[Sri K. Madhava Menon] [31st March 1951]

the conditions mentioned in the Bill. If he keeps the rent for three months in arrear, he can be evicted. It is asked what will happen if he transfers the right to another person. Of course, the transferee will have to pay the rent. If he does not pay the rent for three months, he can be evicted."

MR. CHAIRMAN:—"Motion moved—

"That the Malabar Tenancy (Amendment) Bill, 1951, as passed by the Legislative Assembly and as amended, be read a third time and passed."

SRI B. NARAYANASWAMI NAYUDU:—"Mr. Chairman, Sir, I am not saying that the cultivating tenant should not be allowed to cultivate the land. What I ask is this. Can the cultivating tenant alienate the land to another person? Alienation is limited to private property holder. If the cultivating tenant alienates, he ceases to be a cultivating tenant. (The Hon. Sri K. Madhava Menon: 'He is an identical tenant.') But when he puts him on the land, to whom should the collection fee go? The verumpattamdar puts a third man on the land as the cultivating tenant and takes the money from him. This will mean that the verumpattamdar is turned into a landlord himself. This Bill seeks to provide that the first landlord, if he puts in a cultivating tenant, should not have the right to cultivate it himself. Similarly, the verumpattamdar should not be allowed to put in a cultivating tenant of his choice and himself become a landlord. He should be only a cultivating tenant. His right is only to cultivate from generation to generation and pay the fair rent to the landlord. On the other hand, the Government want to provide that the advantage of possession and of converting himself into a landlord should be given to the verumpattamdar. If the verumpattamdar does not want to cultivate the land, it must revert to the janmi, the first owner and not to this man. Why should the verumpattamdar have the right of alienation? Sir, the question of giving him fixity of tenure is different from making him the landlord. Is it the intention of this Government that if the land is put in the possession of the verumpattamdar, he must become the landlord as in the ryotwari area? Certainly he cannot enjoy both rights. Now, even in the case of a dry land, if the man in possession of it lets it to another man, then it means that he becomes the landlord. So much so, he can cultivate it as long as he wants and when he no longer wants it, he can sell it to another person. (The Hon. Sri K. Madhava Menon: 'He must pay the fair rent.') Whether he pays fair rent or not, when he puts in another man in his place, then he ceases to be a verumpattamdar; he is really the landlord. The real value of property is in the letting value of it and not merely in the rent due from it. Suppose I have a land; I lease it to another man and he is the verumpattamdar. He cultivates the land and after a period does not want the land and puts in another man. That another man gives Rs. 1,000 in consideration of acquisition of this right. To whom should this Rs. 1,000 be paid? In morality and in jurisprudence?"

[31st March 1951]

MR. CHAIRMAN:—"What is the grievance of the hon. Member? I suppose he knows what happens in the ryotwari areas and what happens in the zamindari areas. Here there is a verumpattamdar. He has got a right to cultivate the land. I think the contention of the hon. Member is that he cannot part with his land and put another cultivating tenant on the land in his stead."

SRI B. NARAYANASWAMI NAYUDU:—"Yes, Sir. If the verumpattamdar is made the landlord and if he sub-lets, I can understand that. But this Bill gives him fixity of tenure and at the same time, makes him the landlord. If the verumpattamdar lets it to another man, that second verumpattamdar will get occupancy right, but he will have to pay only the fair rent. The only thing is the first verumpattamdar is now made the landlord. Instead of the janmi getting the letting value, the first verumpattamdar gets it. Therefore, the whole question is 'Is there or is there not going to be a property with regard to land?' The Bill does not destroy the existence of the landlord but only transfers landlordism from one party to another. The point is whether that transfer should be allowed. Does it require tenancy legislation? For instance, the same thing will occur with regard to ryotwari land. Hereafter, according to this Bill, if you give the lease to a person, he becomes the verumpattamdar, gets the land, cultivates it, and has got the right to introduce into the land another tenant and get the letting value. The poor janmi who has been having it all these ten years cannot get it. This is only transferring landlordism from one person to another. However much you may say that you want to give fixity of tenure, it is different to say that he must have the right to transfer it to another person and receive the letting value. The letting value should continue to be where it was. That is the only way to protect peasant proprietorship. But practically this Bill abolishes peasant proprietorship. I ask, to-morrow are you going to say with regard to ryotwari land that if a man is introduced into the land, he will be the person that can pay the rent and also let it to another man? We are not concerned with fixity of tenure. What we are concerned with is, who is the person that can let the land and who can take the letting value? That is the real incidence of private property. Here, private property does not exist. You cannot shift it from one person to another person, calling it 'tenancy reforms'. It is quite wrong. Therefore, I oppose this motion that the Bill be passed."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"Mr. Chairman, Sir, some of us did not participate in the innumerable divisions that were called for and in the debate on the several amendments that were moved. It was largely due to feelings of expediency, because it was futile to enter into many of these discussions and the calling for divisions except on some occasions did not serve any useful purpose. At the same time, when it comes to passing of the Bill, I should not like to be a silent member giving my vote one way or the other, because I feel

[31st March 1951] [Dr. A. Lakshmanaswami Mudaliyar]

that such fundamental principles are involved in this Bill that unless we make it very clear, those of us who feel strongly, that we are not committed to the principles of this Bill, we shall be told when a subsequent tenancy legislation on a large scale is brought forward, that that tenancy legislation is based upon the principles of the Malabar Tenancy Reform Act which the Legislature has already accepted.

"It is from that point of view that I feel a note of warning is to be sounded. Unfortunately with regard to the Malabar Tenancy Bill, it is difficult to comprehend even the elementary things. It is not a reflection on us when I say that the majority of the hon. Members of the other House as well as this House are as conversant with the various terms occurring in this Bill as they are with Hebrew or Greek. Terms like verumpattamdar, kanamdar, kudiyruppu and various other things are rather jokes with some hon. Members than realities as they are with the people of Malabar. I am not surprised at it. Also, the large majority of them have never been to Malabar—although I have been there—and hence know nothing of what is going on there. If I may venture to recapitulate the position, I may say that even the members of the Joint Select Committee who toured round the district hardly know anything of the real state of affairs with regard to land tenures in Malabar. However, I feel that in regard to several of these matters, while a certain amount of general commendation of principles like,—a tenant should not be evicted for no fault of his, there should be fixity of tenure for a tenant so that he may cultivate usefully, and so on—may be accepted, there are other principles to which my hon. Friend, Sri Narayanaswami Nayudu, referred which make the Bill so comprehensive in its force that ultimately the question of shifting the title to land from landlord to tenant may quite possibly have to be faced."

"In regard to the various details, I have already said on another occasion that there are certain principles in this Bill which make it necessary for us to feel that on the whole the janmi loses far more than he ought to. No doubt the Bill is going to be passed. Let me refer to one or two anomalies in the Bill. It seems to me that this is a case of 'Heads we win and tails you lose.' The janmis are hit very hard. Let me take one instance. Hon. Member, Sri Narayana Menon, referred to section 29-B which deals with remission of assessment. I can understand that well-known principle. This section says—

"Whenever for any reason the whole or any part of the assessment payable in respect of any land for any period is remitted by the State Government, the landlord shall be bound to remit the whole or a proportionate part of the rent due to him from his tenant in respect of that land for that period."

The tenant therefore gets the benefit of the remission that the Government give to the landlord. Sir, there is a proviso to this section which says—

"Provided that where the tenant has already paid to the landlord anything in excess of the rent payable by him under the foregoing provision, the tenant shall be entitled to have the excess adjusted towards the subsequent rent payable by him to his landlord."

[Dr. A. Lakshmanaswami Mudaliyar] [31st March 1951]

Thus the tenant is protected in two ways. Firstly, he gets the benefit when the Government give remission to the landlord. Secondly, should he have paid all the dues to the landlord and if any remission is granted by the Government subsequently to the landlord, then the tenant is entitled to have the excess adjusted towards the subsequent rent payable by him. This may be a fair thing as between a landlord and a tenant. But what we find in clause 53 of the Bill to which Sri Narayana Menon also referred, is something strange. This clause says—

‘If before the expiry of twelve months from the commencement of this Act or such further time as the Collector may from time to time allow in respect of the lands situated in any tract or village, the tenant of a holding pays to his landlord the entire rent payable in respect of that holding under the Malabar Tenancy Act, 1929, as amended by this Act, for the six agricultural years beginning with 1944-45 and ending with 1949-50, the landlord shall not be entitled to recover from the tenant any arrears of rent due in respect of the holding for any previous agricultural year.’

Thus, the same principle that was employed for the reduction of rent in what is known as the Agriculturists' Debt Relief Act which benefited only a large section of the landlords and not the tenants and about which a great deal of criticism was offered at one time, is sought to be employed in this Bill also. There are two ways in which this provision will affect very wrongly. A tenant who has been regular in the payment of his dues gets no benefit whatsoever. He might have paid his dues and that is the end of it. On the other hand a wayward sort of tenant who might have defaulted in his payment and who might have been very irregular in his payment and who might also have misused the income from the land without paying anything to the landlord will get all the benefit as the Government, according to this clause, will say to him, ‘Oh! if you have not paid your dues till now, well we will excuse you provided you pay six years' rent from 1944-45.’ This is really a premium put on the tenants who do not really deserve such a premium. If the Government want to be favourable towards the tenants, let them be fair towards all the tenants. Thus the tenants get benefit of the remission of assessment given to the landlord under section 29-B. Here again, under clause 53 they get the benefit of paying the rent only for six years even though they might not have paid their rent for a number of years. Where the Government do not give remission and the landlord has to pay the rent due to the Government, the tenant is given the remission for a period. Why should the landlord be penalised like this? Under section 29-B, the Government have made it clear that where the Government give remission to the landlord, the tenant should have an opportunity of getting the benefit of that remission. Therefore the principle underlying clause 53 is at variance with the principle underlying the previous provisions of the Bill. The Government are so concerned with the interests of the tenants that they ask for a *carte blanche* for all the tenants. They also say to these tenants, ‘After the passing of this Act, please do not pay any rent that may be due prior to 1944-45.’ If this is not an expropriation Bill, I would like to know what expropriation is.

[31st March 1951] [Dr. A. Lakshmanaswami Mudaliyar]

‘Although this Bill may be passed, there is this fundamental fact to be taken into consideration, viz., that the whole system of land tenure is yet under the consideration of the Government and a Special Committee appointed by the Government is considering this question.’

THE HON. SRI K. MADHAVA MENON:—‘I may inform the hon. Gentleman that the question of Malabar Tenancy is excluded from the terms of reference of that Committee.’

DR. A. LAKSHMANASWAMI MUDALIYAR:—‘It may be excluded from the terms of reference of that Committee. When that Committee submits its report to the Government, on the basis of the recommendations of that Committee, the Legislature may have to consider the nature of tenancy that ought to be adopted for this State. In that case I take it that the Malabar Tenancy Amendment Act may justifiably come under scrutiny in the light of the reforms suggested by that Committee known as the Land Revenue Reforms Committee. I am not sure whether the reforms that may be suggested by that Committee will be to the advantage of the janmis or will be to their disadvantage. But taking everything into consideration, I expect that their recommendations are very likely to be to the disadvantage of the janmis. Even so, the fundamental fact has got to be considered that all tenancy reforms in the State must be based on some uniform principles, and that varying degrees of differences must not exist. We feel that occupancy rights may be given to a certain extent. But I should say that there is a great deal of confused thinking in saying that the tenant who cultivates the land should be the occupier of the land. I give this fair warning to this House that if this principle is accepted, there will be no tenant entitled to cultivate the land. Because, we know that a tenant cultivates the land only for some time till he becomes rich enough to leave cultivation and take up some other avocation. If the Government want to give occupancy rights to all the tenants, ultimately it will not entitle such tenants to cultivate the lands. Sir, I am not drawing a gloomy picture when I say this. I feel that the passing of this measure like the passing of the Zamindari Abolition Bill may appear to be a piece of legislation which is in the interests of the poor tenants. But I am sure that ultimately it will prove to be otherwise. I have also grave doubts whether the passing of such a legislation at a time when we are faced with such acute food shortage, will really be in the interests of the public at large.’

SRI R. SURYANARAYANA RAO:—‘Sir, after all, this House has considered the Malabar Tenancy Bill and we are in the last stages.’

DR. A. LAKSHMANASWAMI MUDALIYAR:—‘The Bill is in the last stages.’ (Laughter.)

SRI R. SURYANARAYANA RAO:—‘I meant that we are in the last stages of the consideration of the Bill.’

[31st March 1951]

MR. CHAIRMAN :—" We are told that this House is also in its last stage." (Laughter.)

* SRI R. SURYANARAYANA RAO :—" I do not think so, Sir, because we hope to sit at least for a day in April.

" Sir, I quite well appreciate the sentiments expressed by Dr. Lakshmanaswami Mudaliyar. We know his views on many matters. I want to answer one point which he raised, with regard to the benefits that a tenant will get consequent on the remission of assessment given by the Government to the landlord. This has been our grievance even in regard to the ryotwari areas. In my district, whenever there is famine, not only the Government have been demanding their pound of flesh but also the landlords who lease out their lands have been demanding their rent. Thus, the ryots were put to a lot of trouble. I find that this is the first time when a principle is evolved by which a tenant will get the benefit of the remission granted by the Government to the landlord. When the Ryotwari Reform Bill comes, I hope this principle will be introduced in it. This is a very wholesome provision. My hon. Friend Dr. Mudaliyar referred to clause 53 which deals with old transactions. May I point out to Dr. Mudaliyar that no janmi would have kept quiet without collecting his rent for a long time and no janmi would have allowed the rent to become due for more than a year or two."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" Why then this provision is introduced in this legislation?"

SRI R. SURYANARAYANA RAO :—" There are some good landlords in Malabar as there are elsewhere."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" Quite so; that is why I have referred to this matter."

SRI R. SURYANARAYANA RAO :—" There are good janmis as well as bad janmis as there are good and bad tenants. I may, however, say that this clause and the principle involved in this clause have nothing to do with the principle of remission about which Dr. Mudaliyar spoke."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" On a matter of personal explanation, Sir, I wish to state that I did not object to section 29-B, but I only pointed out that there was no relevancy."

SRI R. SURYANARAYANA RAO :—" I am grateful to Dr. Mudaliyar for his clarification. We on this side of the House have indicated in some measure by the amendments that we moved that we wanted to be just to all persons concerned in this affair. We were very keen that Sri Narayana Menon should vote with us in all matters. But for his failure to do so, we would not have changed our tactics in the afternoon. It is wrong on the part of Sri Narayana Menon to have moved so many amendments to a Bill which is sponsored by a Party to which he belongs.

[31st March 1951] [Sri R. Suryanarayana Rao]

Such a thing is really unheard of in the history of any Party Government in any country. If he was not able to convince his party with regard to any matter, he should have left his party. I wonder how he was moving so many amendments even while continuing to remain in his party. (Interruption.) We have moved so many amendments, because we want to be fair as far as possible to all parties. In some respects, we have shown that we have a more pro-tenant attitude than the Government themselves. Even now, Sir, I feel that, if not this Government, at least the future Government are sure to bring in certain of the principles involved in many amendments in favour of the tenants and incorporate them in the Act.

" Any future Government dare not but follow in the footsteps of the present Government. Perhaps, the Hon. Sri Madhava Menon would have accepted some of our suggestions if he had been free. 5-15 P.M.

" Without taking any more time of the House, Sir, let me say that we are very thankful that God has been gracious enough to restore Sri Madhava Menon to health so that he could pilot this Bill in this House. We thought that it would fall to the lot of the Hon. the Minister for Land Revenue to pilot the Bill in this House owing to the illness of Sri Madhava Menon. If that had happened, the Land Revenue Minister would have been in the same position as most of us were—and even now are—in regard to terms like kanam-kuzhikanam, kudiyruppu, etc. (Laughter.) We are glad that Sri Madhava Menon has been restored to health and I am sure that the passage of this Bill—so keen he was—will prove a very good tonic and restore him to better health. Whether we were able to agree with him or not, we must appreciate his keenness and it is his very anxiety to get through the Bill that made him fall ill. I may assure him that when we moved amendments, it was our desire to assist the Government, as I said on the last occasion, in making the Statute as good as possible. I am sure that the Hon. the Minister, Sri Madhava Menon, will bear in mind the points raised by Sri Narayanaswami Nayudu and see that no lacuna exists in the Bill which may defeat the very purpose with which the Bill has been brought forward. I hope he will bring in an amending measure to see that the consequences that threaten the passage of the measure do not come to pass.

" Sir, we are very pleased that the Hon. the Leader of the House is back again. He was only one minute late to throw his vote in favour of the Government, the difference being only two votes, nine against eleven. We are glad that he also has been restored to health and I hope he will continue to be the Leader of the House—as you said—the legitimate Leader of the House. He is entitled to be so by virtue of his long experience and able leadership. We are ending this session with good tidings from all. Both our Leader and our acting Leader are back to their posts to carry on the administration as best as they can. I hope Sri Madhava Menon will bear in mind any criticisms that we have made and see that whatever suggestions that were made here are

[Sri R. Suryanarayana Rao] [31st March 1951]

incorporated under the rules to be framed. This will remove the hardships that may be caused by the undue exercise of powers vested in the Executive and safeguard the interests of all. I beg of the Minister to be careful in choosing the Rent Settlement Authority. I think he has to change the idea of appointing Tahsildars as rent settlement officers. The Bill, as has emerged from the Assembly, gives too much powers to the Rent Settlement Authority. For instance, he has to decide whether a kanam is a mortgage or a lease, a decision which will be appropriate for a civil court to take. Therefore, even if it should involve a little more expenditure, persons well versed in civil law alone should be appointed. If he happens to be a person knowing something about revenue matters also, such a person can be preferred. I say all this because it is found that the position of the Rent Settlement Authority under this Bill is not the same as was envisaged when the Bill was first published. He has become a very big officer now. The Hon. the Minister for Law will, therefore, bear in mind that properly qualified persons are appointed to the post. With these words, I support the Bill because I have been supporting it and I am not ashamed of supporting it."

JANAB K. UPPI:—"Mr. Chairman, Sir, I rise to associate myself with the sentiments expressed by hon. Members in welcoming our venerable Friend, the Leader of the House, almost at the end of this session. I really feel great pleasure to see him amidst us. I hope when we meet next, he will be restored to full vigour."

MR. CHAIRMAN:—"We are meeting again on the 16th."

JANAB K. UPPI:—"Thank you, Sir. It is a matter for consolation and pleasure that our Friend, Sri Madhava Menon, has been restored to health and is amidst us to pilot this Bill. May he be restored to his full health and vigour soon."

"So far as the Bill is concerned, Sir, Sri Madhava Menon has been agitated about it. To a certain extent, that is the reason why he has been shouldering the burden of piloting it, although it is somebody else that should pilot it—the Hon. the Minister for Land Revenue—and has also courted the displeasure of some people in Malabar. Sir, the Bill sounds the death-knell of the janmis of Malabar. It has taken away all the rights of the janmis, including proprietary rights. The incidents of proprietorship are either taken away completely or whittled down to a great extent, so that it is not possible for a janmi to rise again. What are the incidents that have been taken away? His right of contract has been taken away. The rent has been reduced. He has been getting two-thirds as rent and now it is only one half. Where the rent was two-fifths, it has been reduced to one-fifth. He has no right of renewal. He becomes no longer entitled to renewal fee. These rights are gone. Again, when it is a question of deciding whether a kanam is a mortgage or a lease, the value of the janmam is sought to be affected to the disadvantage of the

[31st March 1951] [Janab K. Uppi]

landlord. The Government have now opened the flood-gates. Any Government that may come in future will simply extend the same principle and say: 'Already the janmis of Malabar have agreed to this; now they must sell their property to the tenant for so many times the capitalized value of the rent or the difference between the assessment and the fair rent. This Bill is going to kill the landlords. It is going to expropriate them. I do not know whether the landlords of Malabar, even the middle-class of Malabar—especially of North Malabar, will be thankful to Sri Madhava Menon and to this House for this legislation. Sir my time is up and I do not want to take any more time of the House."

* SRI M. NARAYANA MENON:—"Mr. Chairman, Sir, doubts of boyhood are cleared in old age. That is my position when I think of the Bill, its passage and its consequences. I have heard, while young, of Kilkenny cats. I have seen cats devouring mice but could not imagine cats devouring each other. Now I understand what Kilkenny cats are. Both would disappear after a fight. Similarly, now, when I think of this Bill, I am very clear in my mind, when I say that though the two cats may not physically disappear, at least in principle both the tenantry and the landlords of Malabar will disappear as a consequence of this Bill. Let me not make a statement without proving it. I can prove it easily. I do not want to keep my hon. Friend (Sri Madhava Menon) here for a long time. (The Hon. Sri K. Madhava Menon: 'I cannot tolerate this.') I can tolerate, Sir, even though you cannot. There is sufficient humanity in me and I speak for the janmi, the tenant, the kanaindar and the verumpattamdar and everybody concerned. Sir, under this Bill, the rent of the landlords is reduced. It is now one half. Renewal fee is abolished so that there are two losses which the landlord suffers—loss of a portion of rent and also renewal fee. As a consequence of this measure, the landlords will be reduced to a very miserable condition, except a few big janmis, who can be counted—it cannot be more than a dozen. They are already in a condition where they can be termed poor or not poor. When their rent is reduced and renewal fee abolished, they will certainly be reduced to the position of poor people. They will be ruined and from their ruin will commence the ruin of the tenants. There is a provision in the Bill which says that if a landlord wants his land for cultivation *bona fide* or for other purposes, the tenant can be evicted. There will be a large number of them in Malabar suing tenants for eviction within the course of four or five years. The help that is now rendered to the tenant will be the cause of their destruction because the rent is now reduced and all landlords will go to the courts for resuming their lands. They will say: 'we want the lands for our own cultivation; we have no other income; we want the lands for our own maintenance. That will be the prayer, a very acceptable prayer to the court under the existing conditions and the result will be the tenantry will disappear."

[Sri M. Narayana Menon] [31st March 1951]

5-30 p.m. "The landlord is lost on the one hand and the tenant is also lost on the other. This is sufficient to remove my doubt that I entertained in my boyhood. The doubt has been removed and now I am quite clear on that point.

"With regard to another matter also my doubts are cleared. I belong to the Congress party. I am subject to the party rules and principles. I really respect them, and I stand for them. Here I moved amendments because I stood for my constituency and I must bring to the notice of the Government and Members of this House provisions of the Bill which adversely affect the landlord. As far as I could I took up their cause with fair mindedness. I do not want to destroy either the janmi or the tenant. Both of them should somehow or other get on together in friendship in Malabar. With this view only I presented my suggestions here. But my difficulty is, my party would not support them. As regards the opposition, I thank very many of them for having given me some help. But with regard to a few amendments I expected support from them only in seconding the amendments. Even that was denied to me. Therefore my difficulty was, I was between the Scylla and the Charybdis. I was never in such a position before and could not therefore understand what it meant. Now I have understood that also, and I certainly found it difficult to be in such a position. I have just now emerged out of it because I have nothing more to say, and no more amendments to move. Hereafter it is only a case of listening to my Hon. Friend Sri Madhava Menon regarding the various objections raised by hon. Members here.

"With regard to sympathy, my position was of course difficult as I was between Scylla and Charybdis, which I could very well understand. But I assure you the landlords and the tenants of Malabar are to be very much sympathized with because their fate will be such hereafter. I therefore request the hon. Members when the time comes to be prepared with details of Malabar Tenancy and be helpful to the tenants and landlords alike. As it is we can do nothing more for them though of course we are all in sympathy with them. The hon. Members could not have very much helped them here because in the short time the Bill was before them, they could not be made to understand the details of tenure affecting the people of Malabar. In spite of this they were able to give some help to the people of Malabar and certainly the people of Malabar will be thankful to them.

"One word with regard to the Hon. Minister. His intentions are very good. I know him from his very boyhood. But what were his intentions? He wanted to help the tenants. But how could he help them? Is it by destroying the landlord? Before he took up this Bill he had good intentions at least so far as the tenants were concerned but now his is a difficult position. I am bound to say that however good the intentions might be, certainly they are not going to help or produce the desired results. Intentions are there, but the results are bad. This certainly is not

31st March 1951] [Sri M. Narayana Menon]

the time to introduce a Bill of this nature. We should have waited, considered further and referred to the report of the Agrarian Committee now sitting so that the land problem of the whole State may be considered as a whole. Instead of introducing social legislations of this character in one district in the first instance and then in another and so on, the Government should introduce one social legislation for the entire State. That would have been sufficient, adequate and necessary. I say this Bill will certainly not help the people of Malabar.

THE HON. SRI K. MADHAVA MENON:—In spite of the imprecations and curses of my hon. Friend Sri Narayana Menon and the friendly curses of my hon. Friend Janab Uppi Sahib, a representative of the landlords of Malabar, I still feel that this Bill will do considerable good to the people of Malabar. The hon. Member Sri R. Suryanarayana Rao was saying that I was considerably anxious about this Bill being passed into law. I was not so much anxious about the passage of the Bill, because this could be got through with the party behind me. But I was anxious certainly, because it is a district to which I belong and I had to be both the guardian of the tenants and the landlords. It was that position in which I was placed that caused me considerable anxiety because whatever be the result, I was also to be one of those who would be sharing in the good or the bad effects of the Bill along with everyone in Malabar and who are connected with this Bill. I thank the hon. Member for the kind words he said about me.

"Now, Sir, I want to make clear as far as I can one or two misconceptions—according to me—that were referred to here. The hon. Member Sri Narayanaswami Naidu with his usual eloquence and vehemence said that the verumpattamdar has been given fixity for dry lands also, and he becomes a landlord. It is not so. The fixity is given only to the cultivating verumpattamdar and that fixity was not given by me. I have not changed the 1929 Act in that regard. Section 14 of the 1929 Act gives fixity to the cultivating verumpattamdar. The section reads—

"No suit for eviction of a cultivating verumpattamdar from his holding shall lie at the instance of his landlord except on the following grounds:—

(1) that the tenant has wilfully denied the title of the landlord before the date of such suit;

Explanation.—A denial of the landlord's title under a bona fide mistake of fact is not wilful within the meaning of this clause;

(2) that the tenant has intentionally and wilfully committed such act of waste as are calculated to impair materially and permanently the value or utility of the holding for agricultural purposes.

Only this identical clause is put by me there. An amendment was introduced by the 1945 Act by the Advisers' Regime saying that eviction could be effected by the landlord for bona fide cultivation of the land for his maintenance. We have embodied that also. Therefore there is nothing new brought in by me regarding the fixity of tenure of the cultivating verumpattamdar about which the hon. Member spoke. He said: "For dry lands even under the old Acts if a person held hundred acres of dry lands and

[Sri K. Madhava Menon] [31st March 1951]

had only one cent of wet land along with that, he gets fixity for these dry lands. It is not that fixity was denied under the old Acts. Under the old Act, this fixity was alienable and heritable. Therefore we have introduced nothing new in this Bill and so it is not correct to say that something has been done against the old Act. If the verumpattamdar transfers he becomes a landlord, it was said. It is not so. When a landlord leases out his lands he is entitled to a fair rent according to the old Act. Under the present Bill also a landlord, whether of dry, wet or garden land, when he leases out he is entitled to get fair rent, from X, Y or Z if he is cultivating the land. That person only who is cultivating the land will get fixity under the old law and it is continued by me in this Bill. There is nothing outrageous done by me in relation to that.

"Sir, then hon. Member Dr. Lakshmanaswami Mudaliyar said that it was the general principle that whenever remission of revenue is granted the tenant should get the benefit of the remission and this was denied under section 53. It is not so, Sir. We have stated that if the tenant pays rent due from 1944-45 up-to-date, the balance will be wiped out.

"Then, Sir, it was asked why this particular Act is needed for Malabar alone when another Committee was investigating the land tenure problems of the whole State. Sir, there was an Act passed by the Madras Legislature in 1946 saying that all suits for eviction for non-payment of rent in respect of Malabar should be held up. The period of this Act expires by October 1951. That was a temporary Act and was passed like a moratorium. That is the reason why this Bill has been taken up now. Indeed I would be glad to wait for the legislation to be introduced as a result of the Committee's report and be benefited by it. But there was a Bill sponsored by Mr. Karanth which said that if anybody paid the rent for two years from 1944 and deposited each year's rent as it accrued within a specified time limit, the suits that were pending for eviction should be stayed. If the tenant did not, he would be evicted. As the tenant had to pay heavy rents which he cannot pay and if he did not pay he stood to be evicted, it was necessary that relief should be given to him from the payment of heavy rents. That is the reason why the Bill was taken up now and passed.

"Then coming to the question of revenues referred to by the hon. Member Dr. Lakshmanaswami Mudaliyar and Sri Narayana Menon, the landlord will not lose the revenue. If the tenant has to pay revenue and the landlord has paid it, it is a debt which the landlord can collect under the ordinary provisions of the Civil Law. Even now the wiping of arrears will not wipe off debts due to the landlord. When the landlord has paid the amount by assessment or otherwise, which the tenant ought to pay, it is an ordinary debt which the landlord can collect under the Civil Procedure Code. It is not a case of his not being able to do so. That is all what I can say in the matter and I do not share the pessimism of my hon. Friends in this matter.

31st March 1951] [Sri K. Madhava Menon]

"Then, Sir, as regards the doubts raised by the hon. Member Sri Narayana Menon and how he had resolved them, it is only a question of wish being father to the thought. As conditions change our opinions also change. For various reasons, which I need not refer to, I have not changed my view though I am a petty janmi. As I have said, still it is my feeling that I could not go far, as far as I wanted to go, because the Constitution stood in my way. Sir, my hon. Friend Sri Narayana Menon asked me how I could help the tenants under this Bill. We have tried to the extent possible with the help of hon. Friends to relieve the sufferings of the tenants and that could be nullified by friends of my profession. But it is very difficult to say now to what extent the tenants would get the relief. But I am sure that the tenants would get considerable relief from the difficulties from which they are suffering now. Though we might not be able to give absolute relief to them, I should like to say that we have been able to give them something which will really be a relief and therefore it will redound to the economic prosperity of Malabar by this Bill becoming Law."

MR. CHAIRMAN:—"The question is—

"That the Malabar Tenancy (Amendment) Bill, 1951, as passed by the Assembly and as amended be read a third time and passed."

The motion was declared carried.

A poll was demanded by Sri B. Narayanaswami Nayudu.

The division bell was rung and the motion was put by the Chairman and declared carried. The division was not pressed.

The House then adjourned to meet again at 11 a.m. on Monday, the 16th April 1951.

[31st March 1951]

APPENDIX I.

[Vide answer to starred question No. 201 asked by Sri R. Suryanarayana Rao at the meeting of the Legislative Council held on 31st March 1951, page 767 supra.]

(a)

Name of the Scheme.	Gross expenditure for 1949-50.	Gross expenditure for the first six months of 1950-51.
(1)	(2)	(3)
	RS.	RS.
1 Land Development by mechanical cultivation—Installation of oil engine pumping, etc.	10,95,122	1,52,823
2 Soil conservation and contour bunding	58,831	9,803
3 Rural compost making	39,160	4,450
4 Green manures		77,990
5 Improved paddy seeds		5,13,880
6 Improved millet seeds		17,800
6A Improved pulses seeds		
7 Control of pests and diseases of crops	4,31,851	2,14,200
8 Subsidised distribution of phosphatic fertilizers		
9 Distribution of Ammonium Sulphate	3,67,50,616	36,71,671
10 Supply of electric motor pumpsets and pipes to Agriculturists for lift irrigation (only pipes are acquired and distributed by the Agricultural Department)	4,49,196	1,73,246
11 Central Agricultural Engineering Stores and supply centre (supply of oil engines and electric motor pumping sets on hire-purchase system)	3,30,397	11,33,484
12 Land Development by tractor cultivation	37,45,912	10,44,879

* Separate figures not available.

(b) The following statement gives figures of additional production under all Intensive Cultivation Schemes reported by Collectors as verified by inspection during 1949-50 and during 1950-51 up to 31st December 1950:—

Name of the Scheme.	Additional production in tons as verified by Collectors, 1949-50 as verified by Collectors.	Additional production in tons as verified by Collectors during 1950-51 up to 31st December 1950.	Additional production aimed at or final revised targets for 1949-50 [vide clause (c) below].
(1)	(2)	(3)	(4)
	RS.	RS.	RS.
1 Land Development by mechanical cultivation, installation of oil engines and electric motor pumping sets	1,194	274	6,305
2 Soil conservation and contour bunding	139		
3 (a) Rural compost making	557	130	897
(b) Urban compost making	487	359	1,265
4 Green manure	4,836	603	8,304
5 Improved paddy seeds	19,324	1,482	13,207
6 Improved millet seeds	698	107	811
7 Subsidised distribution of phosphatic manure	7,741	1,573	9,933
8 Distribution of Ammonium Sulphate	37,772	16,987	1,06,012
9 Land Development by mechanical cultivation, tractor reclamation	3,759	538	11,167
10 The Tank Improvement Scheme	248	193	1,740
11 Irrigation tube wells	199	203	373
12 Public Works Department Irrigation Scheme	9,615	5,885	13,838
13 Wells Schemes	12,432	4,158	9,549
Total	99,001	39,402	1,82,080

31st March 1951]

(c) The revised targets of additional production for 1949-50 (with reference to units achieved by the end of March 1950) are shown in column (4) of the statement given under clause (b) above.

(d) The attention of the hon'ble Member is invited to the answer to clause (d) of question No. 22, dated 24th May 1950 (paper placed on the table of the House already) and to the answer to clause (d) of question No. 148 by Sri K. Manathunainatha Desigar (paper placed on the table of the House). The total subsidy cost of each scheme representing twice the amount of the grant payable by the Centre is met from the food procurement bonus for 1949-50. In regard to schemes 1 to 8 listed the total subsidy costs as now arrived at are as shown below:—

Name of the Scheme.	Total subsidy cost.
(1)	(2)
	RS.
1 Land Development by mechanical cultivation, installation of oil engine pumping sets	1,71,536
2 Soil conservation and contour bunding	58,831
3 Rural compost making	39,163
4 Green manure	
5 Improved paddy seeds	
6 Do. millet seeds	
6A Do. pulses seeds	
7 Control of pests and diseases of crops	2,63,568
8 Subsidised distribution of phosphatic fertilizers	33,17,514

The final proposals for adjusting the total subsidy cost of the above 8 schemes and of other Intensive Cultivation Schemes of this State for 1949-50 (in all amounting to about Rs. 2.00 crores) are pending scrutiny by the Accountant-General, Madras. As soon as the Accountant-General furnishes his verification certificate, the Government of India will be apprised of the position. For 1950-51, the Grow More Food Schemes are financed initially from the procurement bonus fund, and when it is exhausted completely, the Government of India will be approached for a grant to cover half the excess of subsidy cost over the available bonus fund. The Government of India have agreed to this arrangement in respect of all Intensive Cultivation Schemes included in this Government's programme for the current year.

(e) In respect of Intensive Cultivation Schemes, in which the purchase of capital machinery is not involved, the Government of India generally sanction a grant of half the total net cost incurred by the State Government and the remaining half has to be borne by the State Government. The total net cost on the scheme representing the shares of the State Government and the Government of India is called the subsidy cost in the case of such schemes. But in respect of schemes where the purchase of capital machinery is also involved, the grant due from the Government of India is limited to half the subsidy cost which is calculated by taking into account only depreciation and interest on the capital items of expenditure and also all recurring items of expenditure (running or working cost, cost of staff, etc.), and deducting therefrom the receipts or the revenue derived from the scheme. In both the above cases, the

[31st March 1951]

subsidy cost (representing the shares of the Government of India and also the State Government) is adjusted against the procurement bonus fund.

(f) The Government of India have approved the schemes for 1950-51, subject to minor changes in the subsidy cost of some of the schemes, necessitated by further estimates furnished by the State Government.

(g) Yes.

(h) The previous Five-Year Plan was re-oriented and not abandoned or superseded. Under that plan the schemes were being worked by the respective departments. Pursuant to the decision of the Government of India to stop import of foodgrains from abroad after 1951 and in order to intensify cultivation to attain self-sufficiency, the schemes under the Five-Year Plan were continued under a New Plan called the Two-Year Plan—subsequently revised as the Three-Year Intensive Plan of Food Production for the years 1949-50, 1950-51 and 1951-52. Unlike the Five-Year Plan, the New Plan represents a co-ordinated and integrated effort by the Government under a single authority, namely, the C.F.P., who exercises unified control over the implementation of the schemes though they are individually worked by the Heads of Departments concerned.

(i) The results of the first two years of the Five-Year Plan were considered satisfactory and the schemes were therefore continued for the remaining three years under a unified direction.

(j) Yes. The revised targets under the programme for 1950-51 are furnished in the annexure.

(k) Yes. The tentative targets formulated under the programme for 1951-52 are furnished in the annexure. The programme will be finalized in consultation with the Government of India.

ANNEXURE. INTENSIVE CULTIVATION PROGRAMME.

Name of the Scheme.	1950-51.				1951-52 (tentative targets).			
	Targets of units.	Acreage to be benefited.	Target of Additional Production, TONS.	(4)	(5)	Acreage to be benefited.	Target of additional production (in tons).	
I. Works Schemes (from 1st April 1949)—								
(1) Irrigation Works—								
(a) Sinking of new wells	66,621 wells	66,621	33,310	77,781 wells	77,781	38,890		
(b) Repairing of old wells	7,864 works	142,000	35,500	7,864 works	275,000	73,600		
(c) Construction of new tanks	8,098 sets	46,184	23,092	13,298 sets	80,084	40,042		
(d) Repairs to old tanks	1,233 tube wells	2,410	1,000	1,233	5,000	2,526		
(e) Installation of pumpsets	301 works	114,679	36,478	301 works	171,299	63,621		
(f) Construction of irrigation tube wells								
(g) Irrigation—Installation of River pumping								
(h) Irrigation Works (Public Works Department Irrigation Schemes).								
(i) Construction of Irrigation Works	82,910	371,794	129,320	99,417	612,214	225,345		
(2) Land Improvement Works—								
(a) Contour bunding		9,560	475	15,500 acres	15,500	775		
(b) Clearance and reclamation of waste lands by farmers	270 tractors	124,629	25,517	324 tractors	234,630	41,517		
(c) Land Improvement Works—								
(d) Land Improvement Works	270	144,139	25,992	15,826	250,130	42,292		
II. Supply Schemes (from 1st April 1950)—								
(1) Distribution of Fertilizers—								
(a) Ammonium Sulphate	120,000 tons	3,780,000	210,000	116,000	3,248,000	232,000		
(b) Superphosphate and other chemical fertilizers	25,000 tons		20,368	28,000		23,333		
Total Fertilizers	145,000	3,780,000	260,833	144,000	3,248,000	255,333		

31st March 1951]

[31st March 1951]

INTENSIVE CULTIVATION PROGRAMME—cont.

Name of the Scheme.	1950-51.		1951-52 (tentative targets).			
	Targets of units.	Area to be benefited.	Targets of units (cumulative for works sanctioned only).	Area to be benefited.	Target of additional production (in tons).	
(1)	(2)	(3)	(5)	(6)	(7)	
(2) Distribution of Manures—						
(a) Compost Urban	209,900 tons	41,990	298,000	46,400	5,800	
(b) Compost Rural	96,720 tons	19,344	104,708	20,941	2,617	
(c) Green Manure Seeds	2,000 tons	240,000	3,214	240,000	39,139	
	307,720	301,144	399,320	307,341	40,556	
(3) Distribution of Improved Cereals—						
(a) Paddy seeds	12,697 tons	720,000	14,573	816,000	43,700	
(b) Other seeds	856 tons	273,300	2,050	587,000	18,975	
	13,553	993,300	16,623	1,403,000	62,675	
(c) Pulses seeds .. .. .	.. .. .	.. .. .	119	17,820	565	
	.. .. .	.. .. .	16,741	1,420,820	63,640	
Grand total .. .. .	.. .. .	5,590,867	.. .. .	5,839,605	626,766	

31st March 1951]

APPENDIX II.

[Vide answer to starred question No. 202 asked by Sri R. Suryanarayana Rao at the meeting of the Legislative Council held on 31st March 1951, page 768 supra.]

(a) Out of 27 works sanctioned in 1948, 18 works passed the stage of technical sanction by 31st July 1950 and of the remaining 9 works, 3 have been deferred or are proposed to be deferred, 5 have since been technically sanctioned, and as regards the remaining one work, the question whether a causeway instead of a bridge will not be sufficient, is under examination. Bridge designs being highly technical it takes a long time to prepare an economical estimate. In the case of the 6 works for which tenders have not yet been invited, the detailed estimates prepared by the Superintending Engineer (Bridges) after the approval by the Chief Engineer of rough proposals had to be revised and in five cases revised administrative approval of Government was required and was accorded in 1950 and 1951. The Chief Engineer has assured that there had been no avoidable delay either in the investigation or in the preparation of plans and estimates for the works. The necessity to slow down works on account of the present financial stringency has also contributed to the delay in the progress of works.

(b) The Chief Engineer selects new works to be taken up each year ordinarily from the Post-War Road Development programme and submits proposals by the 1st October with sketch plans and approximate estimates for consideration as Part II schemes for the subsequent year. The views of the Board of Communications on these proposals are also generally obtained. After the proposals are approved by the Government and the provision for them is included in the Annual Estimates of Expenditure and voted by the Legislature, administrative sanction is accorded to the works. In the case of urgent works, such sanction is accorded after considering them as "new schemes" for the year in accordance with the procedure prescribed for sanctioning such schemes. In the case of works under the Central Road Fund programme and the National Highway scheme, the approval of the Government of India is obtained before they are taken up. As regards works on District Board roads, the District Board concerned select works for execution each year and they are approved by the Government after scrutiny with reference to the Chief Engineer's remarks and a lump sum grant is given to each District Board according to the provision made in the budget.

After administrative approval is communicated to the Chief Engineer (Highways), he issues instructions to the Superintending Engineer (Bridges) to submit rough proposals after detailed field

[31st March 1951]

investigation and watches their receipt. After they are received and examined, he issues instructions to the Superintending Engineer (Bridges) to prepare detailed estimates. On receipt of the detailed estimates he accords technical sanction if it exceeds Rs. 1 lakh and forwards the estimate to the Superintending Engineer (Highways) concerned for further action. The Superintending Engineer (Highways) thereafter invites tenders and administers the execution of the work through the Divisional Engineer (Highways).

(c) 'Yes'.

(d) The question was considered and it has been decided that the policy regarding existing vesting of roads and the general set-up of the Highways Department need not be disturbed. The President, District Boards, have however since been invested with certain powers of control over the district engineering staff so far as the execution of the district board works are concerned.

APPENDIX III.

[Vide answer to starred question No. 205 asked by Sri R. Suryanarayana Rao at the meeting of the Legislative Council held on 31st March 1951, page 772 supra.]

(a) Yes, Sir.

(b) *The Wynaad Colonization Scheme.*—The original conception of the scheme was to settle ex-military personnel who had served in World War II, landless civilians and local residents and to help them to develop and cultivate the large areas of rich lands in Wynaad taluk left unutilized on account of malaria.

(1) In the first instance, it was proposed to admit as colonists ex-servicemen, landless civilians and local residents only in the following proportions :—

	PER CENT.
Ex-servicemen	62½
Existing owners and sivaizamadars	25
Other civilians	12½

The proportion was subsequently revised in the case of existing owners, sivaizamadars, and other civilians to 30 per cent and 7½ per cent respectively. Subsequently it was decided to admit as colonists, political sufferers, ex-tappers, Ex-Indian National Army

31st March 1951]

also. There is also a proposal to settle 300 families of refugees from East Bengal. The Government have since decided that the proportion in respect of the last category (other civilians) should be reduced to the extent necessary in order to provide local residents and sivaizamadars.

(2) According to the original scheme, each colonist was to be given two acres wet and five acres dry or 1½ acres dry. Later with reference to the recommendation of the Wynaad Colonization Advisory Committee the agreed size of the plot to each colonist was limited to 10 acres if it was dry.

(3) The scales of advances to colonists as sanctioned originally were also changed as shown below :—

	Original scale.	Revised scale.
	RS.	RS.
Reclamation (per acre)	100	100
Construction of house	1,500	250
Agriculture purposes	500	500
Domestic expenditure at the rate of Rs. 100 per year.	500	350
		(Rs. 200 for the first year and Rs. 100 and Rs. 50 for the second and third year respectively.)
Construction of well		50
Construction of latrine		25

(4) The following concessions to colonists were sanctioned :—

- Assignment of land free.
- Half the cost of reclamation to be borne by the Government.
- Interest charges to be borne by Government for five years.
- Remission of Land Revenue on dry land for the first five years.

The Government have subsequently withdrawn concession (a) in the case of existing owners and sivaizamadars whose lands were acquired and reallocated to them. The concession is now applicable to new settlers only. Concessions (b), (c) and (d) have also been withdrawn. None of the concessions will apply to persons settled after July 1949.

(5) The Post-war Services Reconstruction Fund has sanctioned advances to ex-servicemen at the rate of Rs. 1,900 for every ex-serviceman admitted as colonist.

Araku Valley Colonization Scheme.—The original idea in starting the scheme was to grow potatoes and English vegetables for supply to the army. With the cessation of hostilities the scheme was continued with the ultimate object of (i) eradicating malaria, (ii) raising the level of agricultural economy of the hillmen in order that this may be a beginning for the development of the Agency tract. The occupied lands of hillmen were acquired with a view to redistribute them so that holdings may be parcelled into economic units for colonization on co-operative lines. However

[31st March 1951

owing to certain practical difficulties the proposal to parcel out the lands has been given up and the lands have been restored to the original owners. The hillmen are cultivating the lands subject to certain conditions.

(c) A statement is appended.

(d) The number of families settled in the Wynaad Colonization Scheme up to the end of September 1950 are:—

(1) Ex-servicemen	..	..	..	..	780
(2) Ex-Indian National Army	..	..	..	..	3
(3) Ex-tappers	..	..	..	..	5
(4) Political sufferer	..	..	..	..	1
(5) Aborigines	..	..	..	..	251
(6) Local residents and sivaljamadars	..	..	..	..	740
(7) Landless civilians	..	..	..	..	6
Total					1,786

As regards Araku Valley Colonization Scheme no new families have been settled. The lands have been returned to the hillmen subject to the condition that they should cultivate the entire extent of land in their possession every year. In cases where this is not done lands in excess of the agreed size, viz., one acre wet and five acres dry in respect of which the required undertaking is not given and the unoccupied lands in the valley will be parcelled out to the nominees of the hillmen or to landless hillmen.

(e) No, Sir.

31st March 1951]

ANNEXURE.
WYNAAD COLONIZATION SCHEME.

[illegible]

Total receipts.

Advance paid to ex-servicemen colonists from Provincial Funds since adjusted from Post-war Services Reconstruction Fund contribution.

1	Revenue Department ..	..	..	..	2,85,730	RS.
2	Public Works Department	..	..	..	2,355	
3	Agriculture Department	..	..	..	37,011	

STATEMENT SHOWING THE EXPENDITURE INCURRED DURING THE YEARS 1944 TO 1950 ON ARAKU VALLEY COLONIZATION SCHEME ON VARIOUS HEADS.

APPENDIX

[31st March 1951]

APPENDIX

867

	1944-45.		1945-46.		1946-47.		1947-48.	
	Non-recurring.	Recurring.	Non-recurring.	Recurring.	Non-recurring.	Recurring.	Non-recurring.	Recurring.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
I Revenue and Supervision	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
II Medical relief	..	9,564	..	29,392	..	47,567	3,05,408	50,234
III Public Health and Anti-malarial operations.	..	4,345	..	7,256	..	11,264	..	14,811
IV Agriculture Improvements	..	6,952	..	25,870	..	45,346	838	59,607
V Colonization works	..	54,736	..	3,16,830	..	17,379	13,493	1,01,862
VI Co-operation	..	22,805	..	29,111	..	23,348	13,748	18,539
VII Industries	..	..	..	..	..	..	..	..
VIII Survey	..	..	..	..	..	..	..	..
Total	26,174	98,402	45,086	4,08,459	22,680	3,32,877	3,34,624	3,05,353
1949-50.								
I Revenue and Supervision	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
II Medical relief	..	26,285	..	..	..	..	..	..
III Public Health and Anti-malarial operations.	..	13,940	..	..	..	..	..	..
IV Agriculture Improvements	..	46,547	..	..	..	..	..	..
V Colonization works	..	1,48,139	..	2,420	..	..	..	..
VI Co-operation	..	13,207	..	25,624	..	..	..	..
VII Industries	..	..	..	..	..	..	..	..
VIII Survey	..	1,264	..	8,857	..	..	..	..
Total	46,501	2,49,118	36,901	36,901	1,98,859	..	..	..
1950-51.								
I Revenue and Supervision	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
II Medical relief	..	26,175	..	..	..	..	..	..
III Public Health and Anti-malarial operations.	..	45,086	..	..	..	..	..	..
IV Agriculture Improvements	..	22,680	..	..	..	..	..	..
V Colonization works	..	3,32,877	..	..	..	..	..	..
VI Co-operation	..	3,05,353	..	..	..	..	..	..
VII Industries	..	2,48,118	..	..	..	..	..	..
VIII Survey	..	..	..	..	..	..	..	..
Total	46,501	2,48,118	36,901	36,901	1,98,859	..	..	..

31st March 1951]

STATEMENT SHOWING THE RECEIPTS ON ACCOUNT OF THE ARAKU VALLEY SCHEME

Year:	Revenue Department.	Medical.	Agriculture.	Total.
(1)	(2)	(3)	(4)	(5)
	RS. A. P.	RS. A. P.	RS. A. P.	RS. A.
1944-45	..	..	71 0 0	71 0
1945-46	3,631 14 0	..	4,348 0 0	7,980 14
1946-47	5,398 12 0	5 8 0	48,496 0 0	53,900 5
1947-48	5,058 10 0	12 4 0	20,085 0 0	25,155 14
1948-49	7,561 8 0	7 0 0	93,184 0 0	20,752 8
1949-50	5,492 12 0	25 8 0	15,761 0 0	28,279 4
1950-51 (up to December 1950).	1,877 10 0	29 4 0	(Not furnished).	1,706 14
Total	28,821 2 0	79 8 0	1,12,046 0 0	1,41,846 11

APPENDIX IV.

[Vide answer to starred question No. 207 asked by Sri R. Suryanarayana Rao at the meeting of the Legislative Council held on 31st March 1951, page 774 supra.]

NATIONAL CADET CORPS.

Name of the units and the institutions in which they have been raised.	Number of N.C.C. Officers.		Deficiency.	Number of cadets.	
	Authorised.	Actual.		Authorised.	Actual.
(1)	(2)	(3)	(4)	(5)	(6)
Senior Division.					
1st Madras Infantry Battalion, Fort St. George.					
'A' Company—Government Arts College, Madras.	5	5*	..	156	129
'B' do. Pachaiyappa's College, Madras.	5	4	1	157	154
'C' do. Presidency College, Madras and Government Arts College, Anantapur.	5	5*	..	156	144
'D' do. Loyola College, Madras	5	3	2	156	151
2nd Madras Infantry Battalion, Tiruchirappalli.					
A' Company—Christian College, Tambaram.	5	3*	2	156	154
B' do. St Joseph's College, Tiruchirappalli.	5	5	..	156	153
C' do. National College, Tiruchirappalli.	5	2*	3	157	161
D' do. Government College, Kumbakonam.	5	5	..	156	146
3rd Madras Infantry Battalion, Waltair.					
A' Company—University Colleges, Waltair ..	3	2	1*	100	93
Mrs. A. V. N. College, Visakhapatnam.	2	2	..	65	65
B' do. P. R. College, Kakinada	5	3	2	150	147
Annamalai Independent Company, Annamalainagar.					
University Colleges, Annamalainagar ..	5	5	..	154	154
5th Madras Signal Section, Annamalainagar.					
University Colleges, Annamalainagar ..	2	2	..	60	59

* In these units, there are five supernumerary officers. Taking into account these officers, the actual deficiency in the sanctioned strength is only nine.

868

APPENDIX

[31st March 1951]

Name of the units and the institutions in which they have been raised.	Number of N.C.C. Officers.		Deficiency.	Number of cadets.	
(1)	Authorized.	Actual.	(4)	Authorized.	Actual.
Senior Division—cont.					
6th Madras Medical Company, Park Town, Madras.					
Madras Medical College, Madras	1	1		30	30
Stanley Medical College, Madras	1		1	30	28
3rd Madras Engineer Platoon, Guindy.					
College of Engineering, Guindy ..	2	2		60	58
2nd Madras Electrical and Mechanical Engineer Section, Guindy.					
College of Engineering, Guindy ..	2		2	60	45
Total ..	63	40 *	14	1,959	1,859

(1) Troop number.	(2) Sub-units and name of the school and town.	Number of Officers.		Number of cadets.		(8) Remarks.	
		(3) Authorized.	(4) Actual.	(5) Detachment.	(6) Authorized.		(7) Actual.
Junior Division							
1	(1) Madras Christian College High School, Chetput, Madras.	3	3	..	90	60	A (including 1 ex-army officer commissioned directly, i.e., II Officer—D.C.C. Watson).
	(2) Do.						
	(3) Do.						
2	(1) Ramakrishna Mission High School, Theyagaraya Nagar, Madras.	3	3	..	90	90	
	(2) Do.						
	(3) Do.						
3	(1) Hindu Theological High School, Madras.	3	3	..	90	90	
	(2) Do.						
	(3) Do.						
4	(1) Hindu High School, Triplicane.	3	3	..	90	90	
	(2) Do.						
	(3) Do.						
5	(1) Muthialpet High School, Madras.	3	3	..	90	90	
	(2) Do.						
	(3) Do.						
6	(1) Muthialpet High School, Madras.	1	1	..	30	30	
	(2) M. C. T. M. High School, Madras.	2	2	..	60	60	
	(3) Do.						
7	(1) T. T. V. High School, Madras.	3	3	..	90	90	
	(2) Do.						
	(3) Do.						
8	(1) Government Madrasa-I. Asam, Madras.	3	3	..	90	90	
	(2) Do.						
	(3) Do.						
9	(1) Model High School Teachers' College, Saidapet.	3	3	..	90	60	1 Officer has been promoted as Assistant lecturer and he is not taking part in NCC activities.
	(2) Do.						
	(3) Do.						

869

APPENDIX

31st March 1951]

Troop number. (1)	Sub-units and name of the school and town. (2)	Number of Officers.		Deficiency. (5)	Number of cadets.		Remarks. (8)
		Authorized. (3)	Actual. (4)		Authorized. (6)	Actual. (7)	
Junior Division—cont.							
10	(1) St. Bedes High School's Madras. (2) Do. (3) Do.	3	3	..	90	60	Cadets for the new sub-unit have not yet been enrolled and one officer is kept on super-numerary list besides the three.
11	(1) Doveton Corrie Boys' High School, Madras. (2) St. Mary's Anglo Indian School, Madras. (3) Do.	1	1	..	30	30	....
12	(1) Thyagaraya Chetti Hindu High School, Madras. (2) St. Gabriel's High School, Madras. (3) Do.	1	1	..	30	30	....
13	(1) C. B. M. High School, Visakhapatnam. (2) Do. (3) Mrs. A. V. N. College High School, Visakhapatnam.	2	2	..	60	60	....
14	(1) St. Aloysius European High School, Visakhapatnam. (2) Do. (3) Do.	1	..	1	30	..	(B) (B)
15	(1) Noble High School, Masulipatnam. (2) Do. (3) Do.	3	3	..	90	90	....
16	(1) Hindu College High School, Masulipatnam. (2) Do. (3) Do.	3	3	..	90	60	(A)
17	(1) Board High School, Chittoor. (2) Do. (3) Do.	2	2	..	60	60	....
18	(1) St. Joseph's High School, Cuddalore. (2) Do. (3) Do.	1	..	1	30	..	(B)
19	(1) Syed Murtuza High School, Tiruchirappalli. (2) Do. (3) Bishop Heber High School, Tiruchirappalli.	2	2	..	60	60	....
20	(1) E. R. High School, Tiruchirappalli. (2) Do. (3) National College High School, Tiruchirappalli.	1	1	..	30	30	....
21	(1) St. John's Vestry European High School, Tiruchirappalli. (2) National College High School, Tiruchirappalli. (3) Do.	1	1	..	30	30	....
22	(1) Schafters High School, Tirunelveli. (2) Do. (3) M. D. T. Hindu High School, Tirunelveli.	2	2	..	60	60	....

[31st March 1951]

(1) Troop number.	Sub-units and name of the school and town.	Number of officers.		Deficiency.	Number of cadets.		Remarks.
		Authorized.	Actual.		Authorized.	Actual.	
(2)	(3)	(3)	(4)	(5)	(6)	(7)	(8)
<i>Junior Division—cont.</i>							
23	(1) St. Xavier's High School, Palayamkottai.	3	3	..	90	90	....
	(2) Do.						
	(3) Do.						
24	(1) St. John's High School, Palayamkottai.	2	2	..	60	30	(A)
	(2) Do.						
	(3) Do.	1	..	1	30	..	(B)
25	(1) City Municipal High School, Coimbatore.	3	3	..	90	90	....
	(2) Do.						
	(3) Do.						
26	(1) Municipal High School, R. S. Puram, Coimbatore.	3	3	..	90	60	(A)
	(2) Do.						
	(3) Do.						
27	(1) Little Flower High School, Salem.	3	3	..	90	90	....
	(2) Do.						
	(3) Do.						
28	(1) Montford European High School, Yercaud, Salem.	3	3	..	90	60	(A)
	(2) Do.						
	(3) Do.						
29	(1) Taylor High School, Narasapur.	1	1	..	30	30	....
	(2) Do.	1	..	1	30	..	(B)
	(3) Do.	1	..	1	30	..	
30	(1) Hindu College High School, Guntur.	1	1	..	30	30	....
	(2) Taluk High School, Tenali.	2	2	..	60	30	(A)
	(3) Do.						
31	(1) V. R. College High School, Nellore.	1	1	..	30	30	....
	(2) Do.	1	..	1	30	..	(B)
	(3) Do.	1	..	1	30	..	
32	(1) Municipal High School, Cuddapah.	1	1	..	30	30	....
	(2) Municipal Muslim High School, Cuddapah.	1	1	..	30	..	(A)
	(3) Municipal High School, Cuddapah.	1	1	..	30	..	
33	(1) Government Muslim High School, Kurnool.	1	1	..	30	30	....
	(2) Municipal High School, Kurnool.	1	1	..	30	30	....
	(3) Do.	1	..	1	30	..	(B)
34	(1) Municipal High School, Bellary.	2	2	..	60	60	....
	(2) Do.						
	(3) Setra Gurusanthappa High School, Bellary.	1	1	..	30	30	....
35	(1) St. Joseph's High School, Chingleput.	3	3	..	90	60	(A)
	(2) Do.						
	(3) Do.						
36	(1) St. Columba's High School, Chingleput.	2	2	..	60	60	....
	(2) Do.						
	(3) Do.	1	..	1	30	..	(B)
37	(1) Voorhees High School, Vellore.	1	1	..	30	30	....
	(2) Sri Mahant's Devasthanam	1	1	..	30	30	....

31st March 1951]

(1) Troop number.	Sub-units and name of the school and town.	Number of officers.		Deficiency.	Number of cadets.		Remarks.
		Authorized.	Actual.		Authorized.	Actual.	
(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
<i>Junior Division—cont.</i>							
38	(1) St. Peter's High School, Tanjor.	1	1	..	30	30	....
	(2) Kalyanasundaram High School, Tanjor.	2	2	..	60	60	....
	(3) Do.						
39	(1) Findlay High School, Mannargudi.	2	2	..	60	30	(A)
	(2) Do.						
	(3) Do.	1	..	1	30	..	(B)
40	(1) Town High School, Kumbakonam.	1	1	..	30	30	....
	(2) Banadurai High School, Kumbakonam.	1	1	..	30	30	....
	(3) Municipal High School, Mayuran.	1	1	..	30	30	....
41	(1) Madurai High School, Madurai.	1	1	..	30	30	....
	(2) S.M.S. High School, Karai.	1	1	..	30	30	....
	(3) Malura High School, Madurai.	1	1	..	30	..	(A)
42	(1) Kanara High School, Mangalore.	1	1	..	30	30	....
	(2) Padus High School, Mangalore.	1	1	..	30	..	(A)
	(3) Do.	1	..	1	30	..	(B)
43	(1) Municipal High School, Cannanore.	1	1	..	30	30	....
	(2) St. Joseph's High School, Tellicherry.	1	1	..	30	30	....
	(3) B.H.M. High School, Tellicherry.	1	1	..	30	..	(A)
44	(1) Pandit Motilal High School, Palghat.	1	1	..	30	30	....
	(2) Do.	1	..	1	30	..	(B)
	(3) Do.	1	..	1	30	..	
45	(1) Government Secondary and Training School, Malappuram.	1	1	..	30	30	....
	(2) St. Joseph's High School, Ootacamund.	1	1	..	30	30	....
	(3) Government Secondary and Training School, Malappuram.	1	1	..	30	..	(A)
Total ..		135	118	*17	4,050	3,030	

(A) Cadets for the new sub-unit have not yet been absorbed as the officers have joined the schools recently.

(B) Director of Public Instruction should decide as to which school the Unit should be allotted in the town.

* Taking into account the supernumerary post indicated against Troop No. 10, the actual deficiency is sixteen.

Arrangements are being made to select the additional officers required to make up the deficiency in the authorized strength and they will be sent up for training in a Regular Army Unit during the next summer vacation.

[31st March 1951]

CONDITIONS OF RECRUITMENT TO THE CORPS.

Appointment of N.C.C. Officers (both Senior and Junior Divisions).

Qualifications for Appointment.—No person offering himself for appointment as an officer shall be appointed as such officer :—

(a) unless he is of good character ;

“(aa) unless he is a citizen of India or a subject of Nepal :

Provided that the Central Government may, in any suitable case, relax the provisions of this clause.”

(b) unless he satisfies the following requirements regarding his age—

(i) in the case of an appointment to the Senior Division of the Corps, he has attained the age of 23 years and has not attained the age of 38 years ;

(ii) in the case of an appointment to the Junior Division of the Corps, he has attained the age of 23 years and has not attained the age of 35 years ;

(c) unless he satisfies such standard of physical fitness in height, chest measurement and other respects as may be specified by the Ministry of Defence, Government of India ;

(d) unless he is a permanent member of the teaching staff of the College or School providing the unit or part thereof of the Senior or the Junior Division, as the case may be ;

(e) if he has at any time been convicted of an offence involving moral turpitude and a sentence other than that of fine or of imprisonment in default of payment of fine has been passed in respect of such offences, such sentence not having been subsequently reversed or remitted or the offence pardoned ;

(f) if he has been dismissed from the University Corps of the Indian Territorial Force or the National Cadet Corps or the Territorial Army or the Indian Armed Forces ;

(g) if he is a member of any organization either communal, political or of one believing in violence or communal disharmony.

Provided that—

(i) in case of an officer discharged from the University Corps of the Indian Territorial Force, the Ministry of Defence, Government of India, may relax the age-limit prescribed by clause (b) ;

(ii) a person who is ineligible under clause (e) shall be eligible for appointment if he produces a certificate from the State Government that he is a fit person to be appointed ;

(iii) The Ministry of Defence, Government of India, may authorize the appointment of any person who is not qualified for appointment under the rule.

[31st March 1951]

Enrolment of Cadets—Senior Division.

Qualifications for Enrolment in the Senior Division.—No student of the male sex of any University offering himself for enrolment in the Senior Division shall be eligible for enrolment :—

(a) unless he is of good character ;

(aa) unless he is a citizen of India or a subject of Nepal :

Provided that the Central Government may, in any suitable case, relax the provisions of this clause ;

(b) unless he is under the age of 26 years ;

(c) unless he is on the roll of the College which is providing the unit or part thereof ;

(d) unless he satisfies such standard of physical fitness in height, chest measurement and other respects as may be specified by the Ministry of Defence, Government of India ;

(e) if he at any time been convicted of an offence involving moral turpitude and a sentence other than one of fine or if imprisonment in default of payment of fine has been passed in respect of such offence, such sentence not having been subsequently reversed, or remitted or the offence pardoned :

Provided that a person who is ineligible under this clause shall be eligible for enrolment if he produces a certificate from the State Government that he is a fit person to be enrolled ;

(f) if he has been dismissed from the University Corps of the Indian Territorial Force or the National Cadet Corps or the Territorial Army or the Indian Armed Forces ;

(g) if he is a member of any organization either communal or political in character or of an organization believing in violence and communal disharmony.

Enrolment of Cadets—Junior Division.

Qualifications for Enrolment in the Junior Division.—No student of the male sex of any school offering himself for enrolment in the Junior Division shall be eligible for enrolment :—

(a) unless he is of good character ;

(aa) unless he is a citizen of India or a subject of Nepal :

Provided that the Central Government may, in any suitable case, relax the provisions of this clause ;

(b) unless he has attained the age of 13 years and has not attained the age of 17 years ;

(c) unless he is on the roll of the school which is providing the unit or part thereof ;

(d) unless he satisfies such standard of physical fitness in height, chest measurement and other respects as may be specified by the Ministry of Defence, Government of India ;

(e) if he has at any time been convicted of an offence involving moral turpitude and a sentence other than one of fine or of imprisonment

[81st March 1951]

default of payment of fine has been passed in respect of such offence, such sentence not having been subsequently reversed, or remitted or the offence pardoned :

Provided that a person who is ineligible under this clause shall be eligible for enrolment if he produces a certificate from the State Government that he is a fit person to be enrolled ;

(f) if he is a member of any organization either communal or political in character or of an organization which believes in violence or communal disharmony.

Training of Officers.

Preliminary Service Training.—Every person who has been selected by a Selection Board for appointment as an officer in the National Cadet Corps in the manner specified hereintoforesaid in these rules, shall undergo preliminary Services Training with an Armed Forces Unit for periods as below :—

(a) an applicant for the Junior Division—Two months.

(b) an applicant for the Senior Division, Infantry or Medical Unit—Three months.

(c) an applicant for the Senior Division, Armoured Corps, Artillery or Engineering Units—Four months.

(d) an applicant for the Senior Division, Signal or Electrical and Mechanical Engineering Units—Five months.

(e) an applicant for the Senior Division Air Wing Unit—Four months.

Service Training.—Every officer and cadet who has been posted or appointed to a unit or part thereof of the Senior or Junior Division shall be liable to undergo service training for a period of at least 4 hours per week during the training year :

Provided that no training may be carried out during periods when the college or school in which a unit or part thereof is located is closed for vacations :

Provided that every officer and cadet of the Senior and Junior Division shall undergo service training for a minimum period of 65 hours during the annual college and school session, as the case may be.

(2) Every officer and cadet who has been posted or appointed to a unit or part thereof shall also be liable during the training year to attend an annual training camp of 15 days duration in the case of a Senior Division unit, and of 10 days duration in the case of a Junior Division unit.

Future Expansion.

The question of forming an Air Wing Unit of the Senior Division with a strength of 2 officers and 50 cadets in some of the colleges in the City of Madras in 1951-52 is under consideration.

LIST OF AGENTS FOR THE MADRAS GOVERNMENT PUBLICATIONS.

IN CITY.

CITY BOOK COMPANY, Madras.
HIGGINBOTHAMS, Madras.
P. VARADACHARI & Co., Madras.
THE SOUTH INDIA SAIVA SIDDHANTHA WORKS PUBLISHING SOCIETY, LIMITED, Madras.
VENKATARAMA & Co., Madras.
V. PERUMAL CHETTI AND SONS, Madras.
ACCOUNT TEST INSTITUTE, Egmore, Madras.
V. RAMASAMY SASTRULU & SONS, Vavilla Press, Madras.

IN MUFASSAL.

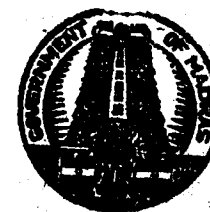
THE EDUCATIONAL SUPPLIES COMPANY, R.S. Puram, Coimbatore district.
D. SREE KRISHNAMURTHY, Ongole, Guntur district.
K. P. AHMED KUNHI & BROS., Cannanore, Malabar district.
THE DECCAN PUBLISHING HOUSE, Kozhikode, Malabar district.
E. M. GOPALAKRISHNA KONE, Madurai, Madurai district.
A. VENKATASUBBAN, Vellore, North Arcot district.
K. BHOJA RAO & Co., Mangalore, South Kanara district.
U. R. SHENOY & SONS, Mangalore, South Kanara district.
SRINIVAS & Co., Kumbakonam, Tanjore district.
S. KRISHNASWAMI & Co., Tiruchirappalli, Tiruchirappalli district.
P. N. SWAMINATHA SIVAN, Pudukkottai, Tiruchirappalli district.
V. S. VASAN & Co., Tirunelveli, Tirunelveli district.
M. SESHACHALAM & Co., Masullipatnam, Krishna district.

IN OTHER STATES.

BANVARILAL JAIN, Agra.
BENARES BOOK CORPORATION, P.O. Lanka, Banaras.
NEW BOOK COMPANY, Bombay.
D. B. TARAPORWALA SONS & Co., Bombay.
THACKER & Co., LTD., Bombay.
N. S. WAGLE, Girgaun, Bombay.
THE BOOK COMPANY, Calcutta.
LAW BOOK SOCIETY, Calcutta.
THACKER SPINK & Co., Calcutta.
R. CAMBRAY & Co., Calcutta.
HYDERABAD BOOK DEPOT, Hyderabad.
OSMANIA UNIVERSITY STUDENTS' CO-OPERATIVE BOOK DEPOT, Lallaguda P.O., Hyderabad (Deccan).
BRAHMANI & SONS, New Delhi.
JAIN BOOK AGENCY, New Delhi.
INTERNATIONAL BOOK SERVICE, Poona.
INTERNATIONAL BOOK HOUSE, Trivandrum.

Issued—6-6-1951

33



3917

MADRAS LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

MONDAY, 16TH APRIL 1951

VOLUME IV—No. 14

PRINTED BY THE SUPERINTENDENT
GOVERNMENT PRESS
MADRAS
1951

Price, 4 annas

CONTENTS

I Condolence Resolution	PAGES 875-878
II Questions and Answers	879-889
III Messages from the Assembly	954-961
IV Reference to Motor Accident to a Member	889
V Government Bills—	890
(1) The Madras City Police and Places of Public Resort (Amendment) Bill, 1951 (L.A. Bill No. 6 of 1951) ..	890-913 962-963
(2) The Madras Civil and Village Courts (Amendment) Bill, 1951 (L.A. Bill No. 7 of 1951)	914-919 963-964
(3) The Madras Hackney Carriage (Amendment) Bill, 1951 (L.A. Bill No. 8 of 1951)	919-920 964
(4) The Madras Wild Elephants Preservation (Amendment) Bill, 1951 (L.A. Bill No. 10 of 1951)	920-922 965
(5) The Madras Borstal Schools (Amendment) Bill, 1951 (L.A. Bill No. 11 of 1951)	922-930 965-968
(6) The Madras Anatomy Bill, 1951 (L.A. Bill No. 12 of 1951)	931-945 967-969
(7) The Madras Estates (Abolition and Conversion into Ryotwari) Second Amendment Bill, 1950 (L.A. Bill No. 33 of 1950) (as passed by the Assembly) ..	945-953 969-975
VI Motion under rule 22 (3) of the Council Rules	945
VII Papers laid on the table of the House	953

2917

THE MADRAS LEGISLATIVE COUNCIL.

Monday, the 16th April 1951.

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

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

I.—CONDOLENCE RESOLUTION.

* THE HON. DR. T. S. S. RAJAN :—“ Mr. Chairman, it is with feelings of great pain and regret that I have got to announce to this House the loss of one of our Members, Mr. Sadagopa Mudaliyar. He was not the type of man who would make himself very prominent, but he was a very quiet, retired gentleman of great talents. I knew him for a long, long number of years. He was a member of the Congress and a true Congressman at that. He had no prejudices. In fact, he would refuse to think ill of people or even listen to rough gossiping news of any kind. He had been a gentleman to the core, brought up in a big family, having such nice friends. He was, if I may say so, a most devoted friend and a follower of Rajaji. As a native of Salem, he was practically well-known in Salem town and in that area, he was a zamindar. People who have once known him can testify to his goodness and to his patriotism. With regard to his work in public life, I well remember the days when he was a prisoner with me in Trichinopoly Jail for six months during Sathyagraha days; he was a very devout Congress worker pledged to khaddar and to Gandhiji all through his life. He was a very unostentatious man, and what is more, he spoke very little. As a Member of this House, he was in constant attendance whenever his attendance was required and whenever his party counted on his presence. Through all these years, with a deformed leg, he was going about as actively as anyone of us. What is more, he was a very good sportsman and interested himself in every kind of sport held in Salem town. He was considered to be the best cricketer of those days. In fact, he managed to captain a team which went to Ceylon to play matches against Ceylon. Having had this sporting life, it would be rather unusual to expect him to be anything other than a gentleman and he was that every inch of him. In Trichinopoly jail, it was a pleasure to be with him and to work with him and I know very well how the Hon. the Chairman of this House had the honour to be one of those who always shared our sufferings and our friendship in the jail at that time. The late Sri Sadagopa Mudaliyar was not seriously ill and in fact, I was told that he died suddenly of heart-failure. It is rather unfortunate to have lost him. He was such a good and staunch partyman right through and a devout Gandhi-ite at that. Therefore, it is with a feeling of pain that I have to mention this fact to my Colleagues in this House, some of whom perhaps may not have known him intimately. But, those

[Dr. T. S. S. Rajan] [16th April 1951]

who have known him intimately, will testify to what I have stated. In fact, he was a big family man with a number of children. Though he was a zamindar, one cannot find in him any trace of a zamindar, even if one were to look for it. He was essentially a democrat and he shared his feelings of popularity and equality with one and all of us with whom he was very familiar. His passing away is indeed a serious loss to the party and to this House. For many years—for over twenty-two years—he was a Councillor of the Salem Municipality and once he acted as Chairman and those in Salem know him well. In fact, Mr. Sadagopa Mudaliyar was such a familiar figure that it would be superfluous on my part to mention about him to an audience in Salem. But, in this Council, he was all alone, in a way; yet, he discharged his trust and his duties fairly well. It is a pity to lose such a fine gentleman and I feel very sorry to announce to this House the irreparable loss of such an esteemed Friend and patriot as Mr. Sadagopa Mudaliyar. So, I move, Sir—

That this House places on record its deep sense of sorrow at the demise of Sri S. K. Sadagopa Mudaliyar, M.L.C., and conveys its sense of sympathy to the members of his bereaved family.

* SRI K. VENKATASWAMI NAYUDU :—“ Mr. Chairman, Sir, I also join in the expression of sorrow because Mr. Sadagopa Mudaliyar's loss is a personal as well as a national loss. Though born in an aristocratic family, he was most democratic in his spirit and as the Leader of the House said, he was a very helpful gentleman and one who had done as many good turns as possible every day. Though he had a physical deformity, time and distance were no consideration to him and he went about, in spite of his deformed leg, as well as anybody else. Mr. Sadagopa Mudaliyar had a very keen sense of humour. He was about sixty-six years old as I found from the newspapers, and though I knew him for many years, I never thought that he was so old because his spirit was young. As I said, he had a fine sense of humour and he always took life very easy. He made other people also feel that life is not a burden. He was a great sportsman and like a school-boy, he never missed a cricket match. That was the spirit with which Mr. Sadagopa Mudaliyar led his life and to younger people, his life was a great example. Though he was not vociferous or spoke many words, yet, his life was an example for all of us to follow. He was a very keen Congressman and he was very loyal to his party. He led a simple life, as we all found him in the jail, where we had the pleasure of being with him for several months. He was my patron, guide and philosopher and every day, I would not miss seeing him while he was in the City of Madras. So, it is a personal loss which I feel; many of his friends will feel likewise. It is a great pity that we have lost him and I am sure his spirit will guide us in our future life.”

* SRI R. SURYANARAYANA RAO :—“ Mr. Chairman, Sir, Mr. Sadagopa Mudaliyar was known to me outside the Council also for many years. Sir, as many co-operators know, he was a

[16th April 1951] [Sri R. Suryanarayana Rao]

keen co-operator and he never missed any co-operative conference that was held either here or anywhere outside in the State. Sir, in this Council, as the Hon. the Leader of the House said, he might not have taken active part but he always took a very intelligent interest in the proceedings of this House. I remember many occasions, Sir, when, in spite of his disability, he walked up to me after we, on this side of the House, made a good point in our debates and expressed his approbation for the manner in which we had put forward our point of view. Always, Sir, I personally looked forward to his appreciation and I valued it greatly because, with his wide experience and knowledge of men and things, he could see what the correct view was, even though he found the Treasury Bench or the Party to which he belonged, sometimes was unreasonably adamant in not accepting our point of view. Though he was a zamindar, there was no trace of the zamindar in him and we shall all miss his genial presence here. May his Soul rest in peace. He has returned to the land to which all of us must return some day or other; he has gone earlier and we hope his Soul will rest there in peace.”

* JANAB K. T. M. AHAMED IBRAHIM :—“ Mr. Chairman, it is with feelings of great sorrow that I rise to associate myself with the sentiments expressed by the Hon. the Leader of the House and the other hon. Members about the death of Sri Sadagopa Mudaliyar. Sir, Sri Sadagopa Mudaliyar was a quiet and unostentatious worker. He had been very prominent in the public activities of his district for more than two decades. His death is a very great loss to his constituency. Though he did not take an active part in the deliberations of this House, he was deeply interested in the subjects that came up for discussion. He was a very useful Member. Nobody would have thought either from his speech or appearance or general behaviour that he was a zamindar. It is only from today's report that people, who did not know him previously to be a zamindar, have come to know that he was a zamindar. This speaks volumes, about his character and integrity. As a friend he was always social, quiet unostentatious and amiable. I do not think he would have offended anybody. As a public worker, he was known in his constituency very well. The people of his constituency will feel his loss acutely. I therefore request you, Sir, that the sincere condolences of this House may be conveyed to the members of the bereaved family.”

JANAB ABDUL LATIF FAROOKHI :—“ Mr. Chairman, on behalf of the Opposition and on my own behalf, I associate myself with the deep sense of sorrow that has been expressed by the Hon. the Leader of the House and the other hon. Members, at the death of Sri Sadagopa Mudaliyar. Though Sri Sadagopa Mudaliyar was not in the habit of making many speeches in the Council, he was a prominent public worker. Not only the Members of this House, but people outside also knew him very well. There was one great quality in him and that was his dignified humour. He never spoke to a friend without a smile on his face. He was of a very genial

[Janab Abdul Latif Farookhi] [16th April 1951]

temperament. He was very unostentatious and simple. He was a gentleman of very strong character. We all appreciate one great quality he had. Though he was a partyman himself, he never lost sight of what the other party or other people had to say. As my hon. Friend Mr. Suryanarayana Rao said, he always appreciated the other man's point of view. In the death of Sri Sadagopa Mudaliyar, this House has lost a very prominent, a very fine and a very good Member and a gentleman of the type which it is not easy to find. I once more associate myself with all the sentiments which have been expressed on the floor of the House and I request you, Sir, to convey to the members of the bereaved family the feelings of sorrow expressed in this House."

MR. CHAIRMAN :—" It is really with sincere feelings of sorrow that I associate myself with all the sentiments expressed just now by the various hon. Members of the House. I had the pleasure of coming into contact with Sri Sadagopa Mudaliyar for the first time in 1937 when the Congress Government first came into power. Subsequently, I had the rare opportunity of living in the same block with him in the Tiruchirappalli jail along with my hon. Friend Sri Venkataswami Nayudu. It was wonderful how this gentleman, though he had a deformity, used to go about morning and evening round all the cells and meet almost all the members in jail there, find out their wants and try to meet them to the best of his ability. Whatever he got for himself from his house or whatever he could save from things supplied to him in jail, he used to reserve carefully and distribute to those who were more in need of them than himself. It was a pleasure to see him moving silently from cell to cell in the early morning and the late hours of the night. To come into close contact with him is a great delight because he had such a delightful humour in him that made everyone forget one's own sorrows. Some remarks have been made here about his having been a silent Member of this House, but I do venture to think that a silent Member is as useful to the party as the most vocal one. We cannot expect all Members to be equally vocal; we want some silent Members also to sit here and vote with the party. Silence does not mean ineffectiveness. His staunch adherence to the principles of the party to which he belonged has been amply testified to by the Hon. the Leader of the House. We never thought that he would pass away so soon. Though he was advanced in age, he appeared to be quite hale and healthy. It is really a pity that the House should have lost such a useful Member. I therefore associate myself heartily with the sentiments expressed by the hon. Members of the House and place this resolution before the House for its acceptance—

' That this House places on record its deep sense of sorrow at the demise of Sri S. K. Sadagopa Mudaliyar, M.L.C., and conveys its sense of sympathy to the members of his bereaved family.' "

The motion was carried *nem. con.* all the Members standing.

16th April 1951]

II.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Expenditure on cultivation schemes.

* 201 Q.—MR. CHAIRMAN :—" The House will now take up question No. 201 postponed on 31st March 1951 for supplementary questions. The answer was placed on the table of the House on 31st March 1951."

SRI R. SURYANARAYANA RAO :—" Sir, just a word of explanation on this question. As the supplementary questions arising out of the answer were so many, I gave a list of them in advance to the Hon. Minister. I do not know whether I was in order."

MR. CHAIRMAN :—" I am sure he would appreciate that."

SRI R. SURYANARAYANA RAO :—" As the Hon. Minister has given me detailed answers, I want to ask him only one supplementary question and that is this. May I know, Sir, what steps the Government have taken to bring into commission the large number of tractors that are lying idle? About 96 tractors out of 287 are lying idle."

THE HON. SRI A. B. SHETTY :—" The number of tractors lying idle on account of not being in a working condition is not so many. Due to seasonal conditions, some have to be kept idle, because tractors can be used only during certain seasons of the year."

DR. SYED TAJUDDIN :—" May I know whether these tractors would be useful for small size farms? "

THE HON. SRI A. B. SHETTY :—" Tractors are generally used for large plots. Small tractors also may be available which may be useful for work in small plots."

DR. SYED TAJUDDIN :—" What is the extent of the farm for which these tractors are useful? "

MR. CHAIRMAN :—" The hon. Member wants to know the minimum extent of the farm for which these tractors may be used."

THE HON. SRI A. B. SHETTY :—" It depends on the type of the tractors."

MR. CHAIRMAN :—" That is what the hon. Member wants to know. Considering the nature of the tractors, he wants to know the minimum area."

THE HON. SRI A. B. SHETTY :—" It may be five to ten acres."

[16th April 1951]

Nursing staff in city hospitals.

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

(a) the bed strength in the various hospitals in the city;

(b) the actual number of patients in each hospital on 31st December 1950;

(c) the number of nurses employed in each of the city hospitals;

(d) the number of patients a nurse is expected to look after;

(e) whether it is proposed to increase the nursing staff commensurate with the increase in the number of patients;

(f) whether the Government have received representations complaining that the existing nursing staff is inadequate; and

(g) whether the Government have under consideration proposals to increase the nursing staff to meet the growing needs of hospitals especially in view of the growing number of patients?

THE HON. DR. T. S. S. RAJAN:—"A statement" is laid on the table of the House."

SRI R. SURYANARAYANA RAO:—"With reference to the answer to clause (f), may I know whether the Hospital Advisory Committees in all places and especially in the city have not been making representations to the Government about the inadequacy of the nursing staff in the various hospitals in the city and the mufassal?"

THE HON. DR. T. S. S. RAJAN:—"The Government are aware of the recommendations and they are taking measures to see how far they can be implemented."

JANAB K. T. M. AHAMED IBRAHIM:—"May I know whether the Hon. Minister feels that 19 nurses are adequate for the Government Ophthalmic Hospital where there are 416 in-patients, especially as these nurses have to attend on patients who are almost blind?"

THE HON. DR. T. S. S. RAJAN:—"The Government are regretfully aware of the shortage. The nurses are not available in plenty. At the same time the capacity of the nurses to manage a large army of patients is questionable. We are trying to adjust things and place as many nurses as are physically possible for us to get for attending on the patients."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"May I know, Sir, whether the figures given with regard to the number of nurses employed in each of the city hospitals are correct, whether they do not include a number of pupil-midwives and pupil-nurses and if so whether they do not show the number of trained nurses available in the hospitals?"

[16th April 1951]

THE HON. DR. T. S. S. RAJAN:—"The hon. Gentleman ought to know these things much better than I can possibly do. Still I know that these figures include a number of probationers, pupil-nurses and so on. But for them, the work of the nursing staff would be very, very difficult."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"May I know whether, taking all these persons into consideration, the figures supplied may not give an erroneous impression to those who are not acquainted with the working of the hospitals? May I know further whether one staff nurse for 15 beds is actually available in all hospitals and whether the total number of 198 nurses shown against the Women and Children's Hospital, Egmore, does not include a number of pupil-midwives and pupil-nurses? In what hospitals in the City is this proportion of one nurse for 15 beds now observed?"

THE HON. DR. T. S. S. RAJAN:—"That is the proportion on which the number of nurses is distributed. Whether it is actually in force now or at any particular time is rather difficult to answer. We are trying as much as possible to meet the growing needs of the hospitals. I cannot say that it is satisfactory, but still that is the best that could be done."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"May I know further, Sir, whether the figures of existing nursing staff employed in these hospitals are accurate and whether they do not include a fluctuating number of pupil-midwives and pupil-nurses who are not exactly employed by the Government but who are being trained there at their own cost or under stipends from local bodies?"

THE HON. DR. T. S. S. RAJAN:—"All these pupils are being employed. They are there for their training as well as for rendering service. When they could be used that way, the Government do not see how they could be trained otherwise than by making them work along with the nurses."

SRI B. BHIMA RAO:—"May I know what steps the Government are taking to train and employ more and more nurses?" 11-30 a.m.

THE HON. DR. T. S. S. RAJAN:—"That is a bigger question, Sir; but I may assure the hon. Member that Government are very much interested in having a large army of nurses properly trained for the purpose. In that view, they are taking all necessary steps to advance their status, their pay and their comforts as far as it lies in their powers to do so."

JANAB K. T. M. AHAMED IBRAHIM:—"May I know why despite the admitted inadequacy of the nursing staff, notices were given to certain apprentice nurses recently, that their services would not be required?"

THE HON. DR. T. S. S. RAJAN:—"I am not in a position to answer that question, just now. So many things might have happened which would have resulted in their dismissal

18th April 1951

of suspension or even in an impossibility to train them. If, however, the hon. Member wants further information, if he puts a separate question, I shall give him the answer."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" Sir, while I appreciate the anxiety of the Government to see that, as far as possible, nurses are provided in adequate numbers, may I suggest that they must consider the appointment of a special committee to go into the whole question of training centres, the number of nurses and midwives that can be trained in the whole of the State, as also a scheme by which it may be laid down that a certain number of nurses and midwives of the various categories should be necessary in the district headquarters hospitals and other hospitals under the charge of the Government, so that when and as funds become available and nurses also become available, the Government may have a plan and a method for manning the hospitals? "

THE HON. DR. T. S. S. RAJAN :—" I thank the hon. Member for his suggestion. The Government will take the earliest opportunity for putting this proposal into operation."

DR. SYED TAJUDDIN :—" May I know what the desirable or the optimum ratio between the nursing staff and the number of beds in the opinion of the Hon. Minister is, compared with the nursing staff in foreign hospitals? "

THE HON. DR. T. S. S. RAJAN :—" I am not in a position to give all the figures straightway, but what is available is given in the answer."

DR. P. S. SRINIVASAN :—" Do these figures include male nurses? "

THE HON. DR. T. S. S. RAJAN :—" Yes, Sir; male nurses include female nurses as well."

SRI S. B. ADITYAN :—" May I know whether the Government have given employment to all the nurses who have undergone training? "

THE HON. DR. T. S. S. RAJAN :—" Yes, Sir; in fact, we are short of nurses, and we are trying to give employment to as many of them as possible."

Manufacture of radon seeds.

* 209 Q.—DR P. V. CHERIAN : Will the Hon. the Minister for Health be pleased to state—

(a) whether a physicist from the Barnard Institute of Radiology was sent on deputation to the United Kingdom for special training in the manufacture of radon seeds;

(b) if the answer to the above is in the affirmative, how much money was spent on his deputation;

(c) whether it is a fact that the Government have ordered that radon need not be manufactured and the radium obtained for this purpose should be converted into radium needles; and

(d) what would it cost the Government for this conversion?

16th April 1951]

THE HON. DR. T. S. S. RAJAN :—" (a) A physicist was deputed for undergoing an intensive study of the practical aspects of Radio-therapeutic procedure and to acquire the essentials of the work of a hospital physicist, and not for special training in radon manufacture as such.

" (b) Does not arise.

" (c) In pursuance of the decision of a conference of Experts held in August 1949, that radon is not of much use and that radium needles are better in the treatment of cancer, the Government have issued orders approving the Surgeon-General's proposals for the extraction of the radium content from the radium bromide now lying idle in Vellore and which was purchased in 1934 for the manufacture of radon, and to utilize the radium extracted to fill up new radium needles.

" (d) The cost involved is £5,609."

DR. P. V. CHERIAN :—" Sir, was the expert on Radiology consulted in regard to this matter? "

THE HON. DR. T. S. S. RAJAN :—" I am not quite sure about it; he should have been consulted if he were available, or if it were at all possible."

DR. P. V. CHERIAN :—" The latest information is that radon seed is the best available method of radium treatment, that it is the cheapest, and that it also saves a large number of hospital beds. If that is so, what is the reason for changing radon into radium needles? "

THE HON. DR. T. S. S. RAJAN :—" We have had a committee to go into the question; they have gone into it and given a decision, and we accepted the decision of that committee. If, however, anything further could be done, I shall be very glad to hear from the hon. Member in the way of suggestion."

DR. P. V. CHERIAN :—" Converting radium into radon seeds is the cheapest method, as each seed will cost only about a rupee; moreover, radon seeds can be distributed to all hospitals where people qualified to give this radium treatment are available, and a person can go home with the radon seed and need not be in a hospital bed as an in-patient, and thus there will be a good number of hospital beds saved for others."

THE HON. DR. T. S. S. RAJAN :—" The report of the committee was to the effect that the radon seed was not of much value in the treatment of cancer; as against this, however, I am willing to take the hon. Member's opinion and see what can be done, by investigating into the matter further."

MR. CHAIRMAN :—" I think hon. Member Dr. Lakshmanaswami Mudaliyar referred to it in his Budget speech."

DR. SYED TAJUDDIN :—" May I know in which year and in which month the committee gave its opinion like that? "

[16th April 1951]

THE HON. DR. T. S. S. RAJAN :—" I am not in a position to answer that question just now."

MR. CHAIRMAN :—" I think the Minister said August 1949."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" Will the Hon. Minister also consider the fact that a large number of patients in the mufassal areas will not get the benefit of this treatment, except wealthy people who can afford to go in for these radon seeds, and will he see that an adequate supply is sent to the district hospitals, so that people can get this treatment there without further trouble? "

THE HON. DR. T. S. S. RAJAN :—" I shall find out what further investigation is necessary in regard to this matter, and then go into the question of distribution as suggested by the hon. Member."

Medical establishment in the hospitals and dispensaries.

* 210 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Health be pleased to state with reference to the answers to the main question No. 53 answered on 12th October 1950—

(a) the sanctioned strength of the medical personnel, medical officers and nurses for the hospitals and dispensaries given in answer to sub-clause (a);

(b) whether all the existing sanctioned posts have been filled up;

(c) the number of temporary posts of medical officers that have been created besides the sanctioned permanent posts;

(d) how many of the posts of temporary Civil Assistant Surgeons, both of Class I and Class II, have been in existence for more than five years;

(e) whether the question of their continued existence has been examined;

(f) how many of the temporary Civil Assistant Surgeons, Class I and Class II, have been acting so continuously for more than five years;

(g) how are the vacancies occurring in the number of posts computed and whether vacancies occurring in temporary posts also are taken into consideration;

(h) what the directions issued are to the Madras Public Service Commission in recruiting temporary appointees for permanent posts; and

(i) whether, in the case of the temporary appointees who have been continuously in service for more than five years, the Government have considered the desirability of dispensing with recruitment through the Service Commission or at least not reserving a certain number of vacancies for direct recruitment by the Commission?

[16th April 1951]

THE HON. DR. T. S. S. RAJAN :—" A report has been called for."

SRI R. SURYANARAYANA RAO :—" In view of the fact that the answer to this question will involve a certain investigation with regard to the strength of the medical personnel in each of the hospitals in the mufassal as well as in the City, will this question also be referred to the committee that has been suggested in connection with the nursing staff, so that the whole question of the medical personnel—both medical and nursing staff—may be examined by that committee? "

THE HON. DR. T. S. S. RAJAN :—" It is a big question involving availability of funds, availability of man-power, trained personnel, etc. All these are questions which require quiet thinking and discussion, so far as the requirements of our State are concerned. We shall certainly go into the question with all these factors in view."

Localisation of the Ayacut under the Kurnool-Cuddapah Canal.

* 211 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Public Works be pleased to state with reference to the answer to question No. 112 given on the 20th January 1950—

(a) what the recommendations are in respect of the localisation of the ayacut under the Kurnool-Cuddapah Canal;

(b) what the decisions of the Government are on these recommendations; and

(c) how the Government propose to implement those decisions;

(d) whether the ryots affected by the decisions will be given an opportunity to make representations;

(e) whether the recommendations and decisions are calculated to increase the ayacut under the Kurnool-Cuddapah Canal and if so, to what extent;

(f) whether the question of compelling ayacutdars to take supply of water or payment of water-rate, whether the supply is taken or not, is one of the points on which the decision has been arrived at;

(g) what proposals the Government have to utilize the waters of the canal fully and also to maintain regular flow so that at no time the ayacut under the canal suffers from scarcity;

(h) whether the Government have also under consideration the question of making the canal navigable throughout the year—one of the original objects of the canal;

(i) what other proposals the Government have to increase the usefulness of the canal for the people of the tract through which the canal passes; and

(j) whether it is proposed to extend the canal to Cuddapah district to irrigate larger extents of land?

[16th April 1951]

THE HON. SRI M. BHAKTAVATSALAM :—“(a) The Special Officer recommended that (i) the wet and irrigated dry ayacut under the canal might be permanently fixed and the required volume of water let down for the ayacut, the surplus being utilized in other places where it is required; and

(ii) an Agricultural farm might be opened to investigate the problems relating to duty, wastage of water, etc.

“(b) & (c) The Government accepted the recommendation to fix the wet and irrigated dry ayacut and to implement the decision, the Board of Revenue has been directed to invite, by notification, applications from the ryots within a specified period to register their lands as wet or dry. A special revenue staff has also been sanctioned to conduct local enquiry, obtain the necessary agreements, etc. The Government did not consider it necessary to open an Agricultural farm as recommended by the Special Officer.

“(d) There is no objection to a ryot making any representation regarding any special difficulty in respect of his land.

“(e) The recommendations and the decisions are calculated to prevent wastage of water under the canal. The full registered ayacut of the canal is not being irrigated now. The localization will enable the Government to know what extent of the present registered ayacut, really requires water, and it will thus be possible to include other lands in the ayacut so that full use can be made of the canal. The present proposal is not, however, intended to increase the total extent of the ayacut.

“(f) Yes. When lands are registered as wet or irrigated dry, wet assessment or water-rate will be charged according to the classification, whether the water is taken or not.

“(g) After the completion of localization of ayacut, it is proposed to consider the question of remodelling the sluices and also the lining of the canal bed and the sides in reaches where seepage losses are considerable.

“(h) No.

“(i) There is no other proposal at present.

“(j) The canal already goes into Cuddapah district and there is no proposal to extend it further.”

SRI R. SURYANARAYANA RAO :—“Is it a fact Sir, that the ryots in Cuddapah district need water more than the ryots in Karnool district, and yet they are not able to get necessary water to irrigate the ayacut under the canal? If so, what steps the Government have taken to ensure that at least the existing ayacut in Cuddapah district gets the necessary supply of water?”

THE HON. SRI M. BHAKTAVATSALAM :—“The Government have no such information.”

[16th April 1951]

State Farming scheme.

* 212 Q.—SRI K. MANATHUNAINATHA DESIGAR : Will the Hon. the Minister for Agriculture be pleased to state the details of the scheme of State Farming, that the Government propose to work, as stated in the Note circulated to the Provincial Food Advisory Council on 14th February 1951?

THE HON. SRI A. B. SHETTY :—“The Government have directed the Joint Director of Agriculture in December 1950 to undertake the preliminary investigation work and formulate proposals for the reclamation and cultivation of compact blocks of waste lands in the State with special reference to vital considerations such as adequacy of rainfall, availability of supplemental irrigation facilities, etc. The Government have sanctioned a special staff consisting of one Assistant Engineer, one Supervisor, one draftsman and one peon for the purpose. The proposals of the Joint Director of Agriculture in this regard are awaited. After the Joint Director of Agriculture's proposals are received and examined, the Government will decide whether a suitable State Farming Scheme can be adopted.”

DR. SYED TAJUDDIN :—“May I know the extent of waste land which would be brought under the plough through this scheme?”

THE HON. SRI A. B. SHETTY :—“That is a matter that will have to be gone into; and that is why a special staff has been sanctioned for the purpose.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“May I know whether the Government are aware that a circular has been sent by the Government of India to the various Universities suggesting that Principals of colleges should take up farming as a subsidiary occupation and that the students should be asked to help in the working of such a scheme? May I know how far this Government have examined the proposals and what kind of help they intend to give in this respect?”

THE HON. SRI A. B. SHETTY :—“A separate question may be asked, Sir.”

Workers in Government Factories and Industrial undertakings in the City.

* 213 Q.—SRI R. SURYANARAYANA RAO (on behalf of Sri P. R. K. Sarma) : Will the Hon. the Minister for Land Revenue be pleased to state—

(a) the number of workers and other staff employed in the Factories and Industrial undertakings conducted by the Government in the City of Madras and within a radius of 10 miles;

(b) what housing accommodation is provided for them by the Government;

[16th April 1951]

(c) what the rates of house-rents paid to them are and how far they met their actual requirements; and

(d) whether the Government have any housing scheme under consideration for providing suitable housing for these workers employed under them?

THE HON. SRI H. SITARAMA REDDI :—“(a) 5,608.

“(b) No housing accommodation is provided, except for the following :—

Government Press. Quarters are provided for Electrical and Mechanical Engineer, Overseer, Chief Electrician, Assistant Electrician and one peon.

Madras Electricity System Power Station, Basin Bridge, Madras.

Four bungalows in Power Station compound and two bungalows in Harness and Saddle Factory compound are provided for officers.

“(c) The information * in regard to the first part of the question is placed on the table of the House. As regards the second part the Government have no precise information on the point.

“(d) The question of acquiring a site in Tondiarpet for the construction of quarters for Government Press employees is under consideration.”

DR. SYED TAJUDDIN :—“Do the Government think of having at least prefabricated huts for the workers?”

THE HON. SRI H. SITARAMA REDDI :—“No; we do not believe in these prefabricated houses.”

DR. SYED TAJUDDIN :—“At least have they thought of semi-fabricated huts?”

THE HON. SRI H. SITARAMA REDDI :—“It is quite possible, Sir, to construct cheap houses with local materials; and as I have said, we are already investigating the question of acquiring the necessary sites.”

MR. CHAIRMAN :—“But do the Government believe in fabrication?” (Laughter.)

THE HON. SRI H. SITARAMA REDDI :—“Not at present, Sir.”

SRI R. SURYANARAYANA RAO :—“Is it not desirable that the Government should set an example to other industrial employers by building quarters for their own employees, especially the workers? Provision for Engineers and other highly-paid employees is not the main consideration, but it is the actual workers who have to be provided with houses. Have the Government any scheme, or do they propose to have a scheme at all, so that they may reach the target within a reasonable distance of time?”

[16th April 1951]

THE HON. SRI H. SITARAMA REDDI :—“I agree with the hon. Member's proposition that the workers must be first looked after, so far as housing is concerned. But, as I said, we are investigating the possibilities of getting some sites for putting up the necessary quarters.”

III.—MESSAGES FROM THE ASSEMBLY.

MR. CHAIRMAN :—“I have to announce that I have received the following messages, dated the 2nd, 3rd and 5th April 1951, from the Hon. Speaker of the Madras Legislative Assembly :—

“(1) I transmit a copy of the Madras City Police and Places of Public Resort (Amendment) Bill, 1951 (L.A. Bill No. 6 of 1951), as passed by the Assembly on the 2nd April 1951, and signed by me for the concurrence of the Council.

“(2) I transmit a copy of the Madras Civil and Village Courts (Amendment) Bill, 1951 (L.A. Bill No. 7 of 1951), as passed by the Assembly on the 2nd April 1951, and signed by me for the concurrence of the Council.

“(3) I transmit a copy of the Madras Hackney Carriage (Amendment) Bill, 1951 (L.A. Bill No. 8 of 1951), as passed by the Assembly on the 3rd April 1951, and signed by me for the concurrence of the Council.

“(4) I transmit a copy of the Madras Wild Elephants Preservation (Amendment) Bill, 1951 (L.A. Bill No. 10 of 1951) as passed by the Assembly on the 3rd April 1951, and signed by me for the concurrence of the Council.

“(5) I transmit a copy of the Madras Borstal Schools (Amendment) Bill, 1951 (L.A. Bill No. 11 of 1951), as passed by the Assembly on the 3rd April 1951, and signed by me for the concurrence of the Council.”

“(6) I transmit a copy of the Madras Anatomy Bill, 1951 (L.A. Bill No. 12 of 1951), as passed by the Assembly on the 5th April 1951, and signed by me for the concurrence of the Council.

“(7) In accordance with rule 99 of the Madras Assembly Rules, I transmit a copy of the Madras Village Panchayats (Amendment) Bill, 1951 (L.A. Bill No. 13 of 1951), as passed by the Assembly on the 5th April 1951, and signed by me for the recommendations of the Council.

“I certify that this is a Money Bill within the meaning of Article 199 of the Constitution of India.

“(8) I transmit a copy of the Madras Estates (Abolition and Conversion into Ryotwari) Second Amendment Bill, 1950 (L.A. Bill No. 32 of 1950), as passed by the Assembly on the 5th April 1951, and signed by me for the concurrence of the Council.

“(9) I transmit a copy of the Madras Repealing and Amending Bill, 1950 (L.C. Bill No. 3 of 1950), as agreed to by the Assembly without any amendment and signed by me.”

[16th April 1951]

IV.—REFERENCE TO MOTOR ACCIDENT TO A MEMBER.

MR. CHAIRMAN :—“ The House will be sorry to learn that hon. Member Mr. Narayanaswami Nayudu has had a motor accident and is lying in the Stanley Hospital for treatment of some injury to the thigh. I hope he will be all right very soon. I think I can convey the sympathy of the House to him.”

V.—GOVERNMENT BILLS.

(1) THE MADRAS CITY POLICE AND PLACES OF PUBLIC RESORT
(AMENDMENT) BILL, 1951 (L.A. BILL NO. 6 OF 1951).

THE HON. SRI K. MADHAVA MENON :—“ Sir, I beg to move—

That the Madras City Police and Places of Public Resort (Amendment) Bill, 1951 (L.A. Bill No. 6 of 1951), as passed by the Assembly, be taken into consideration.”

“ Sir, this is a Bill by which we propose to amend the Places of Public Resort Act and the City Police Act for taking powers to prevent smoking in cinema theatres and entertainment halls, during the time when the entertainment goes on and perhaps some little time before that, from the point of view of health, as also for other considerations, so that people who are not in the habit of smoking—or even people who are smoking—may not feel suffocated or feel it very inconvenient to remain in the entertainment hall. Though we had no statutory powers under these Acts to prevent such a thing, yet, as an experimental measure, under the powers vested in them under the Cinematograph Act, the Government directed the owners of theatres, as one of the conditions for granting the licence, that they should prevent smoking only during matinee performances, because during matinee shows, all the doors of the hall will be shut and it will be more inconvenient than during night performances . . . ”

MR. CHAIRMAN :—“ Has the Hon. Minister attended any night performances? ”

THE HON. SRI K. MADHAVA MENON :—“ I have attended night performances very often and I should say I have felt the smoke more offensive and inconvenient. After all we go there more for a little bit of relaxation and enjoy some pleasure after a day's work. But what we find there is very, very offence instead of getting any pleasure or relaxation, because of the suffocation and the excessive smoking by persons who smoke in theatres in utter disregard or any consideration for those who do not smoke. So, night performances are equally bad in this respect, or are bad enough, but matinee performances must be worse still, because all the doors are shut during the performance. So, Sir, we put that as a condition in the licence that, in respect of matinee performances, the theatre owner must see that they do not allow smoking on pain of the licence being cancelled, as contravening the conditions of the licence. We requested the patrons of cinema theatres also not to smoke during the matinee shows having regard to the

[16th April 1951] [Sri K. Madhava Menon]

feelings of non-smokers. So, notices were put up prohibiting smoking during matinee performances and requesting all patrons not to smoke during other performances also. And it has its effect. From the reports we have received, it is found that during matinee shows people did obey the conditions, because otherwise the theatre owner would suffer more than the smoker. As a matter of fact, though there was a request to patrons not to smoke during night performances also, it was not very much observed or acceded to. The moment people see the notice, on account of perversion, they promptly light their cigarettes with a sort of mischievous intention to flout the request altogether. Whatever it may be, the cinema theatre owners brought to the notice of the Government that they were unable in practice to carry out the condition in the licence regarding non-smoking during shows, because if anybody were to smoke, they had no power to prevent it, or had the power to complain to the authorities, because there was no legislation to that effect. Of course, if somebody smokes, the proprietor can only try to prevent it, but he cannot actually prevent it. The Commissioner of Police also brought to the notice of the Government that unless the Government have got statutory powers to prevent smoking, it would not be possible to enforce the condition in the licence. Sir, it is with that object that it is proposed to take powers under this Bill to prevent smoking in cinema theatres at particular periods and we are not, of course, preventing smoking altogether. The hon. Gentleman Mr. Suryanarayana Rao suggests the grant of concessions in certain cases. For instance, in the case of touring tent cinemas in villages, there is no covering overhead at all and I have seen such cinemas without any covering at all. They have simply got an enclosure covered with tent cloth. In such cases, it may not be necessary to insist upon this rule, because the inconvenience that people suffer may not be as much there as in a closed cinema hall. This power is taken only to provide against contingencies and of course, in deserving cases exemptions may be granted. These are the main provisions in the Bill. Of course, I know those who smoke or those who are habituated to smoke, may take offence. There may be Members of the House who are inveterate or chain smokers. As an hon. Member said in the other House, because there is a rule prohibiting smoking inside the House, the Members have either to go to the corridors or lobbies or wait for the lunch interval, to smoke. What we now request is that the patrons of cinema theatres may go out of the hall or wait for the interval, to have their smoke; or if the theatre owners find that their patrons are not encouraging them, they may even increase the interval hour if there are more smokers. But, Sir, ordinary decency demands that we must respect the feelings of others, apart from the question of the health of the people who are not smokers. If you take the percentage of persons who smoke in theatres, comparatively non-smokers will form the majority and the smokers only a minority. Surely the minority should not tyrannize over the majority.

“ Sir, many speeches were made in the other House saying that we are taking away individual liberty.”

[16th April 1951]

MR. CHAIRMAN :—" Fundamental Rights."

THE HON. SRI K. MADHAVA MENON :—" It is said that it is against Fundamental Rights to take away the individual liberty to smoke. But, Sir, even though I may have the individual liberty to walk in this hot season comparatively naked, yet it is a question of decency and Penal Code prevents indecent exposure and society would not permit me to have that liberty to walk here as I like because it is hot. Society expects a sense of decency in habits and in dress and it is all a question of accommodation. Just as we want hon. Members who want to smoke to go out into the corridor to smoke, we want that people who are in the habit of smoking should give some consideration to non-smokers in cinema theatres. Imagine the condition of a cinema house which is packed with people going on smoking? It will be very, very bad even for people who are accustomed to smoking. After all, we are not asking people not to smoke; we are only taking certain powers to prevent smoking while the show is on. Of course, we do say that where smoking forms part of the drama or performance itself, it can be allowed. Otherwise, there should be some sort of consideration shown to people who do not smoke, apart from the question of health of the people. Though we have taken power it can only be done by notification as and when we want to specify any class of entertainments. Regarding matinees we shall try how far it will be possible to insist on penal provisions and we shall try to minimise the hardships as much as possible. But, Sir, mere taking powers under the legislation is not sufficient, but the main thing required is co-operation of people, because it is only then that it can succeed. I want also the co-operation of hon. Members of the House before asking for the co-operation of the public and I hope their co-operation will be forthcoming. I therefore move that the Bill be taken into consideration."

MR. CHAIRMAN :—" Motion moved—

'That the Bill further to amend the Madras City Police Act, 1888, and the Places of Public Resort Act, 1888 (L.A. Bill No. 6 of 1951), as passed by the Assembly, be taken into consideration.'

* SRI B. BHIMA RAO :—" Sir, I agree with this measure and extend my whole-hearted support to it. It is nearly four years since I attended any cinema show and whenever I attended a show it was a veritable nuisance to see smoke coming up from downstairs. For people like me who have got some throat disability, as well as sentimental objection to smoking, it was simply, as I said, a veritable nuisance to suffer smoke coming up from downstairs. Nowadays, somehow smokers have increased and everywhere, it has become a habit, especially among youngsters. Even to-day when I was coming in train, all except myself probably were smokers and it was really a terrible nuisance to suffer this smoke. For those who are not smokers, it is terrible to submit to this kind of nuisance and it is all the more so in the

16th April 1951]

[Sri B. Bhima Rao]

balls. Hence I wholeheartedly extend my support to this measure. I find the hon. Gentleman, Mr. Suryanarayana Rao wants to dilute the definition of 'prohibited period', but I think, the definition should remain as it is. Supposing people go to a cinema show half-an-hour before it commences and go on indulging in smoking, because they could do so till the show actually commences, it would be a terrible den of smoke, instead of a place where people go and enjoy leisure in witnessing cinema shows. I therefore, extend my whole-hearted support to this measure."

* SRI R. SURYANARAYANA RAO :—" Mr. Chairman, Sir, 12 noon.
when I saw this Bill, I thought that the object of the Government in promoting this legislation was not merely a sentimental one that people who are not habituated to smoking should be spared from the smoke of the smokers but, that it was also concerned with the safety of these places. I entirely agree that at no time should smoking be allowed within an enclosed place intended for public entertainment. You will find, Sir, if you look into statistics of places where fire has taken place, mostly it is due to the fact that an inadvertent smoker threw a bit of lighted beedi or cigarette and that was the cause of the fire. From that point of view, I entirely agree that smoking should be altogether prohibited in an enclosed place intended for public entertainment. I am not one of those, Sir, who are so sentimental as the Hon. the Minister for Law. I am not a habitual smoker and I do smoke occasionally. But I certainly would take objection if the Hon. Minister considers smokers on the same footing as those who would like to go about without clothes on a hot day on the road. It is not such a sin and it is not so indecent. I would submit to the Hon. Minister that such comparisons are odious. My point, Sir, is that apart from health considerations on which there is considerable difference of opinion, some people say that moderate smoking does not do any harm and I am not concerned with that here, I feel that smoking in public places which is likely to lead to dangers such as fires should be prohibited and also, Sir, incidentally, such a step will respect the sentiments of those who do not smoke. According to the Hon. Minister, it is true that the majority are not smokers but on that ground, I will not certainly say, smoking must be stopped and that is why I have suggested that the proviso should be removed. Unless special measures are taken against fires, I would like smoking to be prohibited in all places, but as I said, on more valid grounds than those advanced by the Hon. Minister for Law. He did base his arguments not on this but on his tirade against the smokers. He is not also a habitual smoker and he smokes every now and then. It is a fact he must know that many of the fires have been caused by the stubbles of lighted beedis or cigarettes and that is why I am saying that even in touring cinemas, it should be prohibited and the cause of fires should be avoided. Where there is a covering over the head like the tent or where the theatre is merely an enclosure with nothing above the head of the spectators, fires do take place from these causes and therefore, smoking of any kind should be prohibited. It cannot in any way interfere with the

[Sri R. Suryanarayana Rao] [16th April 1951]

entertainments in that those who want to smoke can go out and have a smoke; that is not prevented. Our idea is to prevent dangers that may emanate as a result of smoking within the precincts where an entertainment is taking place. I wish the Hon. the Minister had done it. Not merely on the ground of avoidance of nuisance but from the point of view of safety from fires which occur in many places, I welcome this measure. There should not be any smoking where there is a possibility of fire taking place. After the fire has broken out, it is difficult to detect who is responsible for it: there will be a scuffle and if there are not many exits, a stampede and a melee will take place and innocent people will lose their lives and many will be hurt. I am sure the Hon. Minister for Public Health will appreciate that even with that object, smoking should be prevented in all places of public entertainments."

* JANAB K. T. M. AHAMED IBRAHIM :—" Mr. Chairman, Sir, I have much pleasure in welcoming this measure. Those of us who do not smoke have had bitter experience of how smokers smoke even into our face without caring for the annoyance it causes us. I have felt it very often and especially during the month of Ramzan, when we fast. The smell of tobacco and of the smoke may be very much refreshing to those who are accustomed to it but it is nauseating to those who are not accustomed to it and it is an annoyance to them. Especially in cinema theatres which are closed during the performance, the smoke becomes a very great nuisance and instead of being a relaxation and pleasure visits to the cinema houses, become a very great annoyance.

" The Hon. Minister said that the Government propose to take powers to exempt certain classes from the bar and he instanced the case of the touring cinemas. I feel, Sir, that even the touring cinema should be brought within the purview of the Bill, because most of the touring cinemas conduct their shows in tents and thatched places and the materials employed in the construction of those temporary theatres are inflammable and it is as such very much liable to dangers of incendiarism and from that aspect of the matter, I agree with my hon. Friend Mr. Suryanarayana Rao that they should also be brought under the Act.

" So far as the smokers are concerned, I feel that when the rules are made under the Act provision may be made to allow them to smoke during intervals; but this should not be done for the full interval because if that were to be allowed, the whole place will become clouded with smoke and there will not be sufficient time for the smoke to get out. The arrangement should be such that there should be no smoke lingering in the hall when show commences again. This is a wholesome measure and I suppose there will not be any objection to it in this House from any point of view."

DR. SYED TAJUDDIN :—" Mr. Chairman, Sir, I submit that this is a very welcome Bill which should have been introduced

16th April 1951] [Dr. Syed Tajuddin]

in the Legislature long long ago. From the triple view point, namely, safety, sentiment and health, this is a wholesome enactment and it should be put on the Statute Book at least now.

" The Hon. Minister remarked that the smokers are in a minority."

THE HON. SRI K. MADHAVA MENON :—" In the cinema theatres."

DR. SYED TAJUDDIN :—" I cannot understand how they can be in a minority within the cinema theatres when in the outside world the smokers are in a majority. Much has been said about sentiment by the previous speakers and my hon. Friend Sri Suryanarayana Rao dilated upon the safety aspect of the question. I would like to say a word or two about health. Smoking entails combustion and it consumes oxygen within the four walls of the theatre and there is only a limited percentage of oxygen available for those who are inside. So, it is always safe that smoking should be prevented wholesale because, Sir, the more there is smoking the more the content of carbon dioxide in the air inside the theatre and such a thing is very deleterious to health. As a matter of fact, you give an opportunity to the smokers to make a virtue of necessity. This is an occasion for them to cultivate a sort of self-control, at least for a couple of hours and they are also benefited in that they are able to exercise a bit of self-control and also show respect to the sentiments of non-smokers and they themselves benefit by inhaling a healthier atmosphere, due to the absence of smoke. Therefore, Sir, I strongly support the Bill."

* MRS. MONA HENSMAN :—" Mr. Chairman, Sir, I do not wish to keep the House long before this Bill is passed without expressing our whole-hearted agreement with the various clauses of the Bill as they stand. When I say "our" I speak for the number of women and children whom I know would speak in favour of this Bill if they had a chance of speaking on this occasion. I do not agree with my hon. Friend Sri Suryanarayana Rao when he asks that there should be an entire ban on smoking in one case and in another clause he says that thirty minutes' grace should be allowed to the smokers to fill the place with smoke to the exclusion of the freedom of breathing and good air on the part of the others in the auditorium. He is entirely inconsistent. The Hon. the Minister has put forward the case for the Bill very clearly and I would like to add a word or two to what he has said. For one thing, Sir, I disagree with the hon. Member Dr. Tajuddin when he says that the majority of people in cinema theatres or even in the world, smoke. If you take my sex into consideration, a few women may smoke but I do not think any woman 'strikes up' a match in a cinema theatre and children of our generation may take warning about smoking partly because the price of good quality cigarettes has gone up, and partly because the cheaper brands of cigarettes irritate the throat.

[Mrs. Mona Hensman] [16th April 1951]

Therefore, I would stand by the Hon. Minister and say he is correct in his reckoning that a majority of people in a theatre or even outside it are not smokers.

"Now, Sir, the question of Fundamental Rights was mentioned. One set of people invoke Fundamental Rights to enjoy a cinema show as they like with smoking forgetting that it may interfere with the Fundamental Rights of another set of people to enjoy the show as they like without smoking. This is a matter of interpretation but it is clear that most of our people would prefer to have a cinema or entertainment or drama pure and simple without the air being befogged by smoke or any other element absorbing their share of oxygen.

12-15 P.M. "Sir, I would further like to point out that it is we women who really suffer in these cases. Several times when we come back from cinemas, we see our saris perforated with small holes. (Laughter.) Now those small holes are caused by those gentlemen who smoke, whom we do not know, whom we have never seen before and whom we may never see again just because they hold their cigarette at their knee level and flick ashes and embers frequently. That level also happens to be our sari level; and it is thus these small holes are caused by the cigarettes or sparks coming into contact with our saris. And then only after very careful darning those saris could be worn by us women. Still, sometimes it is difficult to hide even that. So, Sir, for this and other reasons I welcome this Bill. Again, Sir, I think nowadays with the rise in price of cigarettes, smoking will decrease, as such people may not go in for cigars. Now, Sir, the fear of fire has been dealt with and we all agree that this is a real fear. Now, Sir, I will end by saying that this habit of cigarette-smoking, cigar-smoking and pipe-smoking has been formed—I hope I would be excused for what I am going to say—as a habit, very much like the habit of a baby sucking its thumb, the habit of which, apparently they, though grown up, have not got rid of. So this Bill will only bring smokers under discipline in a place of entertainment, in a cinema hall or in a drama hall, wherever they are and make them concentrate on the programme. I think our women and children will whole-heartedly support this Bill as I do to-day."

SRI MOTHEY NARAYANA RAO :—“ అభ్యుక్త, ప్రభుత్వమునందు ఈ బిల్లును తీసుకొని వచ్చినందుకు నాని చాలా అభినందించుచున్నాను.”

MR. CHAIRMAN :—“ I think the Hon. Minister will appreciate an English speech.” (Laughter.)

SRI MOTHEY NARAYANA RAO :—“ Very well, Sir; I shall speak in English. Mr. Chairman, Sir, I congratulate the Government for coming forward with a very useful legislation like the present one. I myself really do not attend cinemas, and even if I do attend them I can put up with smoking, although I am not a smoker myself. But, Sir, this legislation coming before the elections may be harmful (laughter) for the Ministry, because, I feel in the country there are more smokers than non-smokers.

16th April 1951] [Sri Mothey Narayana Rao]

The majority are smokers or, if they are not the majority now, I think, in the next generation, the smokers will be in a majority. (Interruption.) My hon. Friend Mr. Bhima Rao near me says he does not think so. I do not know if his son or sons, if there are any such for him, are not smokers. I doubt very much whether his sons or sons-in-law are not smokers. The majority of the members of a family in the next generation will be smokers, I presume."

SRI B. BHIMA RAO :—“ I may tell you, in my family, there are no smokers.”

SRI MOTHEY NARAYANA RAO :—“ I congratulate him for that. It only shows that he has taken very good care of his son and son-in-law. But all the same, the smokers will be in the majority in society in the near future, if it is not so already. We are going to have adult suffrage in the next elections, and I do not know how the denial of the right to smoke will tell upon the candidates. I wish Government put a ban on smoking; that is, I wish they prohibit smoking altogether. I would very much appreciate if they so ban smoking altogether.”

MR. CHAIRMAN :—“ The hon. Member may advocate that after the elections!” (Laughter.)

SRI MOTHEY NARAYANA RAO :—“ I am not anxious about my candidature. I think, if Government prohibit smoking entirely in the country, although it would mean a certain amount of hardship to the smokers, it will save them from economic ruin, and it will save a lot of money for the middle classes. I know of cases of persons, whose income is Rs. 100 per mensem, spending as much as Rs. 50 on smoking. So, Sir, Government would be doing a wiser thing if they prohibit smoking altogether, just as they have prohibited the use of intoxicating drinks. I hope Government will consider this matter and bring in such a legislation as soon as possible, and thus save to a large number of middle-class people a lot of money now spent on smoking.

"Sir, the Hon. Minister was saying that it is sheer annoyance to him if people begin to smoke in a place where he has gone to relax himself and enjoy a few refreshing hours. But the smokers have got into that habit. The absence of any work renders them restless, and so to keep their fingers and brain engaged they have got into that habit. Anyhow in the interest of public health of the country, it is right that we should prohibit smoking in cinema halls as a first step towards total prohibition of smoking.

"In this connexion, I would like to suggest to the Government to recommend to the Central Government to see that smoking is prohibited in railway compartments. In foreign countries carriages are set apart for smoking; and when a person wants to have a smoke he has to get into it and smoke. This is observed in the so-called civilized countries. But in our country it does not happen. It is high time that such an arrangement is made in our country also. Our ladies cannot put up with this smoking in any place, least of all in railway compartments. Our younger generation seems to have a fancy to continuously smoke."

[16th April 1951]

MR. CHAIRMAN :—“ Especially when women are about! (Laughter.) The hon. Member has forgotten to speak about women who smoke! ”

SRI MOTHEY NARAYANA RAO :—“ They are only a small number. There are some fashionable women who smoke; but their number is small. There are also a number of women who smoke, not outside, but indoors. Besides these, there are the so-called educated women who have taken to smoking as a fancy, because they want to show that they are fashionable and they want to show they are civilized. Now, besides these women, there are the ordinary women, the women labourers; they smoke in a modest manner; they do not want others to know, they are smoking. Now, in the district from which my hon. Friend Mr. Venkatachalamaji comes, a large number of women smoke; but they know, when to smoke and how to smoke and (laughter) they also know how to hide the cigar in their mouth.”

MR. CHAIRMAN :—“ I suppose they know also what to smoke? ” (Laughter.)

SRI MOTHEY NARAYANA RAO :—“ Yes, they know it too. They smoke cigars and not cigarettes. They know cigars are not so harmful and expensive as cigarettes. So they know, what to smoke, where to smoke and how to smoke. They sometimes take the whole of the cigar inside their mouth to hide it, as they do not want to smoke in the presence of respectable people. Then there are the University girls, who are educated, and who want to show to others that they are fashionable, and they too smoke. So, Sir, I welcome this measure and I hope Government will see before long that smoking is prohibited in this country.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ Mr. Chairman, Sir, I am not one of those who feel that I should favour the banning of smoking in a cinema hall or in any other place where large crowds assemble. I have not been to a cinema for the last 20 years, and so I cannot say what the present position of the cinemas is.”

MR. CHAIRMAN :—“ The present position is, you may rest assured, when you come out of the cinema hall, you will find your entire clothes reeking with the smell of tobacco.”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ Then I suppose I should say that smoking should not take place in cinema halls. My difficulty comes when it is a matter of legislation to enforce it. The more legislation you bring to improve social conditions in public life the less do you find public response coming forward to carry it out. The question of public opinion asserting itself is entirely different from passing a legislation. To the extent legislation is imposed on the public, to that extent we may not have public response. I have been to other countries; I have seen cinema shows being held though I have not seen any one of them myself; and if there is a question of smoking not being allowed inside the cinema hall there, not a single person would take the freedom to

16th April 1951] [Dr. A. Lakshmanaswami Mudaliyar]

smoke inside the hall; for, if one wants to smoke, he would go to the place set apart for it very near the cinema hall. For, public opinion in those places is so strong that those who violate the rule would be taught a lesson. So, it is with a bit of humiliation that I look upon this legislation; for, to the extent we legislate, to that extent we do not educate public opinion, in a manner in which it ought to be educated. A legislation to stop smoking may be good in itself; it may be for a good purpose; but still it defeats itself, for it forces down on the public a certain thing. The other day I happened to travel, I should say, by the Southern Railways; for, from yesterday onwards it should be called so. Anyhow I will say for the present purpose, I happened to travel the other day by the South Indian Railway. There, I found a notice board declaring ‘ Smoking can be indulged in if the other passengers do not object ’. That may be a good way of putting the thing. But that also brings in bad feeling among passengers, because of the feeling that some passengers do not like smoking. In the Continent, I saw, separate carriages where one can indulge in smoking. So unless public opinion is sufficiently educated in this behalf, any legislation will be of little use. Already there is in every theatre, outside it, sufficient room to indulge in smoking at convenient ‘ Intervals ’. It seems to me that we are receding from the right path, when we say that we are legislating to educate public opinion in this matter. I am very glad hon. Lady Member Mrs. Hensman has not spoken against this measure. I was wondering whether, in view of the modern trends of civilization, of which I have seen a great deal in other parts of India, she would not be taken to task for supporting a measure of the present kind. But her reference to the sari would go down as one of the good reasons in support of her.

“ Now, Sir, sentiment has been taken into consideration. I always dread sentiment. What is meat for one man, may be poison for another man. But to over-emphasize on sentiment is not proper. It may look as if a few non-smokers by this legislation, may wish to make a virtue out of their habit. I do hope no such attempt is being proposed now against those who are smokers.

“ I think it is necessary for us to take a proper and a very 12-30 considerate view of things in life and to avoid the excesses of p.m. sentimental effort. I, therefore, will not object to this measure except to say that I regret that a legislative measure of this nature is required for this purpose. I can only hope that now that the Hon. the Law Minister has his eyes turned to the cinema halls, many other things that are taking place will also attract his attention, and many other things which are, perhaps, more important for him to take note of than smoking.”

MR. CHAIRMAN :—“ Inside theatres? ”

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ Inside and outside theatres. This measure will no doubt be put into effect. But I doubt whether it will be effective in the long run. Possibly there may be places where a great deal of what may be

[Dr. A. Lakshmanaswami Mudaliyar] [16th April 1951]

called winking the eye may have to take place. Anyway we shall have the satisfaction that we have placed this measure on the legislative anvil. Let us hope that public opinion will assert itself, and, whether this measure is there or not, public opinion will stand by the idea of this measure and prove that this is a necessary thing for all such entertainments."

Sri N. VENKATACHALAMAJI :—“అధ్యక్షా, ఈ బిల్లును ఆమోదముగా ఉంచుచున్నాను. ఇదివరకే సినిమా మొదలగు చోట్ల పాగ త్రాగకూడదని చెప్పి ప్రభుత్వమువారు ఒక G.O. పాస్ చేసియున్నారు. కాని అది సక్రమంగా అమలు జరుగుటక పోవడంతో చాలామంది సినిమా ప్రేక్షకులు నిరుత్సాహపడుతున్నారు. ప్రభుత్వమువారు G.O. పాస్ చేసినా దానిని అమలు జరుపుటయందు ఎక్కువ శ్రద్ధ తీసుకోనందున సినిమాలలో సిగరెట్లు త్రాగుట ఎక్కువగా జరుగుచున్నది అనుకొనున్నారు. ఇట్టివైనా ఆ G.O. ఉద్దేశము ఫలించునట్లు ఈ సవరణ బిల్లును తీసుకొనివచ్చినందుకు చాలా సంతోషముగా నున్నది. ఇందుకు గౌరవ మంత్రిగారిని అభినందించుచున్నాను. ఈ బిల్లును తీసుకొని వచ్చుటకు ప్రభుత్వము వారు ప్రజాభిప్రాయాలను కనుగొనియుండిన చాలా కాగుండాడిదని 4 లక్షల స్వామి ముదలియార్ గారు చెప్పినారు. కాని ఇదివరకు 18500 చేయబడిన G.O. గురించి ప్రజల ఆమోదము ఇదివరకే ఉన్నదని ఇప్పుడు ప్రశ్నకముగా ప్రజల అభిప్రాయము కనుగొను అవసరము లేదని మనవి చేయుచున్నాను. పాగ త్రాగకూడదనే చాలామంది ప్రజల అభిప్రాయము. మా విజయనగరంలో సినిమా ప్రేక్షకుల Provincial సంఘము ఒకటి ఏర్పాటు చేసియున్నారు. వారు అప్పుడప్పుడు meetings జరుపుతున్నారు. వారి meetings లో సినిమాలలో పాగ త్రాగకూడదని వారు కూడా చెప్పుతున్నారు. ఈ సందర్భమున మా ప్రాంతములో స్త్రీలు ఎక్కువ పాగ త్రాగుదలని 4 M. నారాయణరావుగారు చెప్పినారు. కాని మా ప్రాంతములో ఇప్పుడు పాగ త్రాగడం చాలా మట్టుకు అపివేశారు. అయినను సినిమాలకు వచ్చునటువంటివారిలో నూటికి డెబ్బది మంది పాగ త్రాగడమువల్ల సినిమా ప్రేక్షకులు ఇబ్బంది పడుతున్నారు కనుక వారి ఇబ్బంది తొలగించుటకు ఈ బిల్లు చాల ఉపయోగకరంగాను సక్రమంగాను ఉండును. కాని ఇదివరకు సినిమాలలో కొన్ని ఇబ్బందులు—ఉదాహరణంగా గాజుకాయ పోడా బుట్లు వాడు? చేయకూడదని orders వున్నప్పటికీ వాడుక చేస్తూయున్నందున పోడా కావలసినవారే ప్రక్కనున్న వారి, ప్రమాదములు ఒక్కొక్కప్పుడు కలుగుచున్నవి. అలాటి వాడుక చేయకూడదని చెప్పి orders issue చేసినా కూడా అది అమలు జరగడం లేదు. కనుక అలాకాకుండా, ఈ బిల్లుయొక్క ఉద్దేశము సక్రమముగా అమలు జరిగేట్లు చూడవలసిందని చెప్పి నేను గౌ. మంత్రిగారిని కోరుచున్నాను. కాని ఈ బిల్లు తీసుకొని రావడము గాజుగోల electionకు ఎంతమాత్రము సంబంధము లేదని, ఇది election గురించి తీసుకొని వచ్చినదిగాదని చెప్పుచున్నాను. కాని, ఇది కేవలము ప్రజల సౌకర్యముకొరకే చేయబడినది.

“ఈ సందర్భమున ఒక విషయము మనవి చేయుచున్నాను. ఈ బిల్లు సినిమాలకు, నాటకములకు, మూత్రమే అన్యాయముచేస్తుంది అట్లుగాక, ఈ సినిమా ప్రామాణ్యాలనే కాకుండా తక్కిన చోట్లకూడ పాగ త్రాగడము prohibit చేసినట్లు యితర చాలా ఉపయోగకరంగాను సంతోషముగాను ఉండుందని మనవి చేయుచున్నాను. సిగరెట్ల ధరలు ఇప్పుడు ఒక రూపాయకి రీ, రీ రూపాయలకు పెరిగిపోయినవి. అయినప్పటికీ కూడా ప్రజలు వాటిని ఎక్కువ డబ్బు పెట్టి కొనుగోలుచున్నారు.

16th April 1951] [Sri N. Venkatachalamaji]

మరియు చాలామంది కుర్రవాళ్లు వారి తల్లితండ్రులకు తెలిసి త్రాగేవారు ఉన్నారు, తల్లి తండ్రులకు తెలియక త్రాగేవారు ఉన్నారు. ఈ రీతిగా అనేకమంది చిన్నవయస్సు లోనే పాగ త్రాగి ఆరోగ్యమును కోల్పోతున్నారు. కనుక ప్రజల శ్రేయముకొరకు ఆరోగ్యముకొరకు పాగ త్రాగడమునకు prohibition పెట్టినట్లయితే ఆ నిర్బంధనవల్ల పాగ త్రాగడము చాలా తగ్గిపోవుటకు అవకాశముండుందని కనుక ఆ విధంగా ప్రభుత్వంవారు చేయవలసిందని కోరుచూ ఇంతటితో విరమించుకొంటున్నాను.”

JANAB ABDUL LATIF FAROOKHI :—“Sir, I am in agreement with the objects of the Bill. I also feel that there must be some importance attached to legislations. If for everything we should legislate, the importance attached to legislations will be lost. Sir, there are written laws and unwritten laws. Smoking by youngsters is not allowed before elders. A son does not smoke before his father, though he (the son) may be a chain smoker. Let us emulate the example of olden days. Are we to legislate for each and everything? The hon. Member Dr. Lakshmanaswami Mudaliyar was saying that by bringing in legislation for everything, the importance attached to legislation was being lost. Where will this end? Where are we to stop? What are the things for which we have to legislate and what are those for which we have not to legislate? Can we not draw a line between these? If a man is put to the indignity of being sent out of the cinema hall for alleged smoking within the hall, is that not a sufficient punishment? Is it necessary that he should, in addition, be fined Rs. 50? I think there must be an end to all these things. There must be a limit to legislations. Of course, I am in agreement with the principle and object of the legislation. I feel that it would be better that we follow some written laws. Let there not always be written laws. It is better that the Hon. Minister drops this Bill so that people may feel that there are certain things which they should observe in society. If it is from the health point of view that the Bill is brought forward, I am in entire agreement with the hon. Member Mr. Narayana Rao when he said that smoking should be prohibited throughout the country. Smoking increases the cost of living also. I have been a chain smoker. I have given up smoking altogether now. It is not very difficult to give up smoking. The Government by this Bill prevent a class of people, who habitually smoke, from smoking inside cinema halls. People go to cinemas for recreation, and in the cinema halls they smoke. The Government want to prohibit smoking in the cinema halls. But outside the cinema hall people are allowed to smoke. Even in railway carriages people smoke. Though some people may not object to smoking, there are some others who do object to smoking. If smoking is to be prevented in railway travel, it has to be enforced throughout the country. But the Government are by this Bill preventing smoking in certain places while they allow smoking in other places. We should have some unwritten laws in these matters. Particularly in this country there are in society certain things which people respect. These are not to be found in written laws. I feel, therefore, that though the principle of this Bill is good, legislation in all these

[Janab Abdul Latif Farookhi] [16th April 1951]

matters is not necessary. The hon. lady Member Mrs. Hensman was saying that the fundamental right of persons was not affected by this legislation. I do not agree with her. Sir, the other House was right in pointing out that the Government were preventing the exercise of people's rights. If Government think that smoking in a particular place should be prevented and allowed in certain other places, I feel that it is not correct. If anybody has got the privilege to smoke in other places, why should the Government prevent him from smoking inside the cinema hall? He is prevented from smoking for a long time, i.e., throughout the play and for half an hour before and for half an hour after the play. I submit that this measure is not necessary, though the principle of the Bill is good. This principle can be enforced by means of propaganda and not by legislation."

THE HON. SRI K. MADHAVA MENON:—"Sir, I am gratified to note that this House has really proved to be a House of Elders, because I find that I have got support even from the Leader of the Opposition who feels that he must oppose everything that is brought before this House because he is the Leader of the Opposition. Therefore, perhaps, though he agrees with the object of the Bill, he has to oppose it. He has asked me to withdraw it. It is very difficult for me to follow his line of argument in this matter. This House, Sir, has justified the name of House of Elders, because in the other House there was much opposition. I did not particularly mention the question of risk from fire, though that was quite obvious. I certainly apologize for not having mentioned it. That is one of the main reasons, and I took that question also into consideration. But it was the other aspect of the question that was objected to in the other House. That was uppermost in my mind, and that is why I did not specifically refer to the danger from fire. Arguments like 'individual liberties were being affected', 'the State should not bring in legislation for social matters', 'non-smokers might be kept out and smokers might be allowed to see the cinema,' etc., were engaging my attention. Sir, the hon. Gentleman Dr. Lakshmanaswami Mudaliyar evidently did not hear the last portion of my introductory remarks. I am not able to talk now as loudly as I used to do, and that was perhaps the reason why he did not hear me. I said that the success of this legislation depended upon public opinion, public support and public co-operation. I pleaded that we might by our efforts in this House create some sort of co-operation and help in this matter. Ever since I became the Minister in charge of the administration of the Cinematograph Act, I have been trying, without any coercion on the cinema going public, to enforce the objects of this Bill by putting it as a condition in the licence that the owner of the theatre shall not allow smoking inside the cinema hall. I knew the difficulties that the owner of the theatre had to undergo. The result was encouraging. In the matinee shows, the theatre owners appealed to the people that they should not smoke, and that by allowing smoking in the cinema hall they (the theatre owners) ran the risk of having

16th April 1951] [Sri K. Madhava Menon]

their licences cancelled, apart from any inconvenience that might be caused to the non smokers. Sentiment has been wrongly brought in. It is not a question of sentiment of cigar or cigarette being offensive to a particular person who does not smoke. It is a question of physical feeling. One hon. Member referred to smoking in Guntur. My hon. colleague Mr. Chandramouli smokes a particular kind of cigar. Sir, the moment he takes it out of his pocket—it is a small, dark thing about 2½ inches long, and he likes nothing but that—the smell of it is terribly offensive to me, and I feel like vomiting, but perhaps a Guntur man may like the smell. So, it is not a question of sentiment, but it is a question of physical feeling that has to be considered more in this matter.

"Sir, after the restriction on smoking was introduced, smoking even in the night performance has certainly decreased. I have seen it before and after the restriction. We have asked our officers also to watch it. Sir, public opinion is in favour of this principle. For instance, there are some hon. Members in this House who smoke and even they have supported the principle. So, public opinion is in favour of this Bill. But we know that there are certain social outcast people who say, 'If you ask me to do a certain thing, because you are asking me to do it, I will not do it.' They find a sort of malicious pleasure in this. In such cases, when public opinion is in favour of the measure, should there not be some way in which we can give effect to it? Sir, I agree that public opinion is in favour not of complete and outright prohibition of smoking. Even a Bill that I published to prevent juvenile smoking has elicited objection. Therefore, outright prohibition of smoking may be going against public opinion. But inside enclosures, when a performance is going on, although general public opinion is in favour of prohibition of smoking, we have found that the request is being flouted and we and the cinema owners have no authority to prevent it. The cinema owners complained to us, 'Generally the people have obeyed, but where they do not obey, what are we to do?' This is a sort of impudence on the part of some people who say, 'I am going to do this, do whatever you like.' In such cases, some sort of help should be given to the cinema owners and it is that help that is being sought to be given."

"Sir, as I said, the Bill will be extended by notification only to such places where it is necessary. I do not want this law to be a dead letter simply because we are not able to enforce it. Certainly, I want public co-operation in enforcing this law. There is certainly a difficulty in enforcing social legislations when there is no public opinion behind them. But even in many cases people will have to be forced to do good things and public opinion will have to be created for that purpose. Even in the case of big wars, when countries are fighting with each other, some half a dozen people sit together in a Cabinet and decide upon a war and then they carry on a propaganda that their opponents are the worst of people. They can thus create public opinion in their

[Sri K. Madhava Menon] [16th April 1951]

favour. So also when you want to do a good thing, you can create public opinion in favour of it by propaganda. In a legislation like this which it is desirable to undertake, even if there is no public opinion, there is nothing wrong in our creating public opinion in favour of it. •

“Sir, I only said that I had seen cases of cinemas being conducted in villages where there was no overhead covering at all but only an enclosure covered by cloth. In big towns some of us may feel tired if the cinema lasts for more than two hours. But in villages a person is prepared to sit for 6 or 7 hours continuously if only he wants to see a picture. In such cases, exemption can be given for a particular performance or for a particular day. I do not say that all performances are going to be exempted. Referring to the amendment of the hon. Gentleman Sri Suryanarayana Rao, I only said that this was a saving provision to meet certain contingencies.

“Sir, I am grateful for the general opinion expressed in favour of the principle and I trust the officers who have to enforce this law will get sufficient public co-operation. Apart from that, we should be a little bit accommodative to the conveniences and comforts of others.

“Sir, the hon. Lady Member Mrs. Hensman reminded us that the majority of women did not smoke. It may be that some class of women smoke. I mentioned that when we went into a railway compartment, they lighted a cigar put it into their mouths, and went on smoking. As a rule, a few fashionable young blondes think that it is a fashion to smoke. But generally women are averse to smoking and our reports show that they are in a majority in our State. So, the majority are certainly against smoking and I request the House to pass the Bill without further delay.”

MR. CHAIRMAN :—“The question is—

‘That the Madras City Police and Places of Public Resort (Amendment) Bill, 1951 (L.A. Bill No. 6 of 1951), as passed by the Assembly, be taken into consideration.’ ”

The motion was carried and the Bill was taken into consideration.

Clause 2.

MR. CHAIRMAN :—“The motion is—

‘That clause 2 do stand part of the Bill.’ ”

* SRI R. SURYANARAYANA RAO :—“Mr. Chairman, Sir, I move the following amendment which stands in my name—

‘In the proposed section 40-A (1) omit the proviso.’

“Sir, my object in moving this amendment is this. In the beginning I felt that this was a very wholesome measure intended to protect the people from the dangers of fire that frequently

16th April 1951] [Sri R. Suryanarayana Rao]

occurred in these places of entertainment. Therefore, I must warn the Government against exercising the power of exemption. Let the provisions of this Bill be applicable to all places of public entertainment without any exception. What is happening is when a democratic Government is invested with powers of exemption, there are influences at work to which these Governments succumb. It is a kind of delegated power which we are giving to the Government. It is just possible some influence is brought to bear on some authority for getting exemption. Generally it is not the Government that is going to exercise this power of exemption, but it will be delegated to some officers. Therefore, it is likely that the power may be abused. I feel that this proviso should be deleted in order to serve the purpose for which the Government have brought forward this Bill and in the triple interest of safety, health and sentiment in the words of my hon. Friend Dr. Tajuddin.”

DR. SYED TAJUDDIN :—“Mr. Chairman, Sir, I rise, to second the amendment for the reasons which I shall presently state. I believe there is greater risk of damage through fire in the case of touring cinemas. Besides that, my view is that smoking should not be allowed in any public place, not only in cinema theatres but also in places where popular dramas are conducted. What is happening when we are having the session of the Legislature? Are we smoking here when once the meeting commences?”

MR. CHAIRMAN :—“Hon. Members need not refer to it so often. We do not know what will happen in future. Somebody may quote the Fundamental Rights and claim the privilege to smoke here also.” (Laughter.)

DR. SYED TAJUDDIN :—“Let it come, Sir. I know there are a number of smokers not only in this House but also in the Assembly and since they are not allowed to smoke here, they do not smoke. Only in the Committee meetings one can smoke. Therefore, my view is that there should be no loophole in this law so as to allow any one to smoke anywhere. I second the amendment that has been moved by my hon. Friend Sri Suryanarayana Rao.”

MR. CHAIRMAN :—“Motion moved—

‘In the proposed section 40-A (1) omit the proviso.’ ”

THE HON. SRI K. MADHAVA MENON :—“Sir, I have already explained the reasons why the amendment of the hon. Gentleman Sri Suryanarayana Rao cannot be accepted. I do not know whether he remembers the amendment he moved when the Hindu Religious and Charitable Endowments Bill was being considered in this House. At that time he moved an amendment giving power to the Government to exempt religious institutions from the provisions of the law. He wanted to confer on the Government the power of exemption so that they might use it in suitable cases. Now he says that if such a power is vested in a democratic

[Sri K. Madhava Menon] [16th April 1951]

Government, influence may be brought to bear on them. It is rather amusing, Sir. Therefore, the argument that a democratic Government should not be vested with powers like that is not sound.

"Sir, after all, the proviso reads as follows:—

Provided that the State Government may, by notification in the Fort St. George Gazette, exempt any class of entertainments from the provisions of this sub-section.

Therefore, Sir, it need not necessarily be a cinema to which exemption is granted. Sometimes it may be some other entertainment also. For instance, there may be a club which proposes to stage a drama. Some of the members of the club may want to smoke and the club may have invited a few persons who are also smokers. Suppose the club has decided that there is no objection to smoking on the particular occasion, is it right on the part of the Government to say that they should not smoke? Therefore, it is not with the idea of granting exemptions that this Bill has been brought forward, but some reasonable cases may arise where exemption has to be given."

MR. CHAIRMAN:—"The question is—

'In the proposed section 40-A (1) omit the proviso.'"

The amendment was lost.

1 p.m. MR. CHAIRMAN:—"The hon. Member Sri Suryanarayana Rao may move his next amendment to clause 2."

THE HON. SRI K. MADHAVA MENON:—"Sir, let me explain the position with regard to the hon. Gentleman's amendment to the proposed section 40-A (2). He wants that 30 minutes should not be there. I would like to point out to him that 30 minutes is only an upper limit. It only says that it should not be more than 30 minutes. It may be 20 minutes, 15 minutes or anything like that. It is not as if this 30 minutes limit will be applied in every case. As I said it is only an upper limit, that has been provided there."

* SRI R. SURYANARAYANA RAO:—"Sir, I was perfectly aware of the inconsistency of this amendment with the amendment moved by me previously as pointed out by my hon. Friend Mrs. Hepsman. But, when I found that the object of the Government in bringing forward this Bill is not so much on the ground of protection against fire, as on the ground of sentiment and in the so-called interests of the health of the public, I thought that the prohibition must be restricted to as brief a time as possible. Therefore, I move the following amendment standing in my name:—

For the proposed section 40-A (2), substitute the following:—

"40-A (2). For the purposes of sub-section (1), 'prohibited period' means so much of the period commencing from the beginning of the entertainment and ending with the termination thereof,

[16th April 1951] [Sri R. Suryanarayana Rao]

as may fall within the hours which the State Government may, by notification in the Fort St. George Gazette, specify in this behalf for entertainments generally or any class of entertainments."

I do not understand why the Government have fixed the period at half an hour. Either they should prohibit smoking altogether within the precincts of the theatre or restrict the prohibited period to the minimum possible. I say that as soon as the curtain is raised and the drama or show begins, smoking must stop. If they had prohibited smoking completely, it would have been ideal. But it is not so. They have fixed 30 minutes. I want that the restriction on freedom must be to the minimum extent possible.

"Sir, there is also another point. If the Government had brought forward this Bill on the ground of safety and protection against fire, there would not be any conflict with the Fundamental Rights. As it is not so, I am afraid that somebody may raise the question of Fundamental Rights. This has become such a very common thing. Even for prohibition, people are going before courts claiming Fundamental Rights. There may be people who may go before courts in respect of this matter also for exercising their Fundamental Rights. We are making so many laws thinking that they are consistent with the Fundamental Rights guaranteed under our Constitution. But, still, we find people going before courts on the ground of Fundamental Rights. If the Government had put it on the ground of safety, there may not be any such danger at all. Because, the Government have to take steps to protect the people from fire. If anybody took objection to that, all the arguments of the Hon. Minister for Law could be used on safety grounds. Thus he would have been on very safe ground and I am sure that nobody could take objection to it. But, as the object of the Government is quite different from affording protection against fire, I think my amendment is necessary which only seeks to restrict the Fundamental Rights of the people to smoke for as small a period as possible. The amendment is a fair and reasonable one and I hope the Hon. Minister will accept it."

JANAB ABDUL LATIF FAROOKHI:—"I second the amendment, Sir."

MR. CHAIRMAN:—"Motion moved—

For the proposed section 40-A (2), substitute the following:—

"40-A (2). For the purposes of sub-section (1), 'prohibited period' means so much of the period commencing from the beginning of the entertainment and ending with the termination thereof, as may fall within the hours which the State Government may, by notification in the Fort St. George Gazette, specify in this behalf for entertainments generally or any class of entertainments."

* SRI B. BHIMA RAO:—"Mr. Chairman, Sir, I did not

[Sri B. Bhima Rao] [16th April 1951]

Rights has been raised in respect of this matter, I want to say a few words. If we look at the provisions relating to the Fundamental Rights in the Constitution, we will find that only Article 19 could be applied. That article says, 'All citizens shall have the right to freedom of speech and expression, to assemble peaceably and without arms, to form associations or unions' and so on and so forth. I do not think the Constitution gives Fundamental Rights to any citizen to smoke in a place where so many persons congregate and assemble. Such a right is not given in the churches, temples and similar other places, where the precincts are held very sacred. I do not think that such Fundamental Rights are granted under the Constitution. I oppose the amendment on this ground.

"In the course of the introduction of this measure, the question of smoking in railways was also raised by the hon. Member Dr. Lakshmanaswami Mudaliyar. Sir, I think there is already a provision in the Railways Act prohibiting smoking in railway carriages unless all the co-passengers consent to it. Of course, it may be a matter of expediency. As I said this morning, all the passengers except myself began to smoke at half past five in the morning. As a matter of expediency, I did not like to raise any objection to this."

MR. CHAIRMAN:—"Let the hon. Member restrict his speech to the amendment under discussion."

SRI B. BHIMA RAO:—"I oppose the amendment moved by the hon. Gentleman Sri Suryanarayana Rao for the reasons mentioned by me just now."

DR. SYED TAJUDDIN:—"Mr. Chairman, Sir, if smoking is allowed till the raising of the curtain or till half an hour before the curtain is raised, the very object of the Bill will be defeated."

MR. CHAIRMAN:—"Is the hon. Member supporting or opposing the amendment?"

DR. SYED TAJUDDIN:—"I am opposing the amendment, Sir."

MR. CHAIRMAN:—"I want to clarify the position. Hon. Member Sri Suryanarayana Rao's amendment allows smoking till the curtain is raised. The Hon. Minister wants to restrict the 'prohibited period' to 30 minutes before the beginning of the entertainment. Am I to understand that the hon. Member Dr. Tajuddin's view is that smoking should be completely prohibited?"

DR. SYED TAJUDDIN:—"Sir, I think half an hour is not sufficient. When once the atmosphere gets vitiated, the object of the Government in introducing this Bill will not be achieved. I am afraid I am between the devil and the deep sea. I think I have to oppose the amendment moved by my hon. Friend Sri Suryanarayana Rao. I am not in favour of smoking being allowed till the beginning of the show or till 30 minutes before the beginning of the show."

16th April 1951]

THE HON. SRI K. MADHAVA MENON:—"Sir, I have not much to add to what I have already said. As you were pleased to observe, the hon. Gentleman Sri Suryanarayana Rao wants that smoking should be allowed till the beginning of the show, whereas the Bill says that 'Prohibited period' means so much of the period commencing thirty minutes before the beginning of the entertainment and ending with the termination thereof, as may fall within the hours which the State Government may, by notification in the *Fort St. George Gazette* specify in this behalf for entertainments generally or any class of entertainments.' We do not want to prevent smoking completely. We want to prevent it to the minimum extent possible. As pointed out by my hon. Friend Sri Bhima Rao, Article 19 of the Constitution deals with Fundamental Rights. If anybody wants to claim his Fundamental Rights, he may have to do so under Article 19 (1) 'a'."

MR. CHAIRMAN:—"The Hon. Minister can leave the matter to Courts of Law."

THE HON. SRI K. MADHAVA MENON:—"I think Fundamental Rights will not come in here unless a party claims that smoking is his profession, and so he must be given protection under Article 19 (1) (g). (Laughter.) In view of what I have stated already, I cannot accept the amendment."

MR. CHAIRMAN:—"The question is—

'For the proposed section 40-A (2) substitute the following:—

"40-A (2) For the purposes of sub-section (1), 'Prohibited period' means so much of the period commencing from the beginning of the entertainment and ending with the termination thereof, as may fall within the hours which the State Government may, by notification in the *Fort St. George Gazette*, specify in this behalf for entertainments generally or any class of entertainments.'"

The amendment was lost.

* SRI R. SURYANARAYANA RAO:—"Sir, I move—

'In the proposed section 40-A (3) after the words "any police officer" add the words "not below the rank of a Sub-Inspector or Head constable."'

According to the proposed section 40-A (3), any person who contravenes the provisions of that section is liable to be ejected summarily by any Police-officer. I feel that the officer who is given this power to eject a person summarily should have some status."

MR. CHAIRMAN:—"If the hon. Member's amendment is accepted, every theatre must have a Sub-Inspector or a Head constable. Is that his intention?"

[16th April 1951]

* SRI R. SURYANARAYANA RAO :—" My point is this, Sir. When a person gets access to a place of public resort by paying for it and getting a ticket, it seems to be very serious encroachment on his rights if he is to be ejected by a police constable. In a City like Madras, it may happen like this. There may be some grudge between the proprietor of the cinema theatre and a particular individual who goes there. Suppose he inadvertently smokes. The proprietor may take immediate advantage of this and have this man ejected from the theatre by the police constable. I only want that some responsible officer should take this action of ejecting that man summarily from the place to which he has obtained access by paying the fares and obtaining the ticket of admission. That is why I have moved my amendment."

MR. CHAIRMAN :—" Why does the hon. Member want both the Sub-Inspector and the Head constable? "

* SRI R. SURYANARAYANA RAO :—" In the mufassal, the Head constable is almost in charge of the Station, although he is not called Sub-Inspector."

MR. CHAIRMAN :—" I think the hon. Member knows the story of Sir Isaac Newton's Cat. My point is this. When it is said, 'not below the rank of a Head constable', Sub-Inspector comes in automatically. Why should there be both? "

* SRI R. SURYANARAYANA RAO :—" When a man is being ejected from a place of public resort, he will be subjected to some sort of ignominy as all other people of the locality will be looking at him when he is being ejected by a police constable. Although he may be guilty, I want that this action should be done by a responsible officer. In these days, there may be enmity between one section and another. Especially, in the village dramas all sorts of riots take place. The parties take advantage of the village dramas to fight their quarrel. I therefore suggest that the officer who is entrusted with the task of ejecting a person from a place of public resort should be a responsible officer."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second the amendment, Sir."

MR. CHAIRMAN :—" Motion moved—

'In the proposed section 40-A (3) after the words "any police officer" add the words "not below the rank of a Sub-Inspector or a Head constable".'

DR. SYED TAJUDDIN :—" Mr. Chairman, Sir, I foresee a little difficulty in this matter. Especially in the mufassal parts Sub-Inspectors may not be available at all for performing such duties. Therefore I would like to suggest that for the cities, we may have the provision that an officer not below the rank of a Sub-Inspector should be entrusted with this job."

16th April 1951]

MR. CHAIRMAN :—" I would like to point out that this is not budget discussion. There is a definite motion and a definite amendment. Hon. Members should restrict their speeches either to the main motion or the amendment. I do not think they can make their own suggestions apart from what they have here."

DR. SYED TAJUDDIN :—" Sir, I am in favour of entrusting this work to an officer not below the rank of a Sub-Inspector in the cities."

* MRS. MONA HENSMAN :—" Mr. Chairman, Sir, I oppose this amendment from the practical point of view. Having worked in the courts in the City for a very long time for over twenty years. I know that there is not an adequate number of Constables, Head constables and Sub-Inspectors even in Madras to cope with this matter. So I do not think we have sufficient number of these officers to go round the cinema theatres and other places of public resort in the State. I think it is merely a matter of sentiment expressed by the hon. Member Sri Suryanarayana Rao. This is not a matter of impeaching anybody. After all, the people around the person who may contravene the provisions of this Bill, may well say to him that he is not doing the correct thing, and that he is offending the provisions of the Bill. Thus, he may correct himself. I should not even think that this is on a par with certain clauses in the Prohibition Act, concerned with entering a house in connexion with some Prohibition case. This is a matter of obvious breaking of the law—a cigarette is either lighted or not—no imputation is in question. In these circumstances, I think the hon. Member will do well to withdraw the amendment, as the enforcement of the amendment will be very difficult from the practical point of view."

THE HON. SRI K. MADHAVA MENON :—" Sir, I oppose the amendment. I may inform the hon. Member that there are about 900 touring cinemas and a like number of permanent theatres in the State. In the Madras City alone, there are as many as sixty theatres, all permanent. So, to require a Sub-Inspector or a head constable to be posted at each of these theatres—nearly two thousand in number—will be an impossible thing. Secondly, the question of ejection comes in only in the case of a person persistently obstructing others. If a man continues to smoke without the knowledge of the management, then he has to be removed from that place by the easiest means possible. The question of ejection does not arise always. There are other ways of dealing with recalcitrants. They can be prosecuted and produced before a Magistrate's Court. Therefore, Sir, it is not always necessary to eject a person who smokes; it is also impossible for the Government to post a Sub-Inspector or a head constable at each theatre to watch the working of this measure, apart from the danger of fire to which the premises may be exposed."

[16th April 1951]

MR. CHAIRMAN :—" The question is—

' In the proposed section 40-A (3) after the words " any police officer " add the words " not below the rank of a Sub-Inspector or a head constable " . ' "

The amendment was lost.

Clause 2 was put and carried and allowed to stand part of the Bill.

Clause 3.

* SRI R. SURYANARAYANA RAO :—" Sir, I do not propose to move the amendments standing in my name since all of them are more or less similar to the ones already moved and negatived."

Clause 3 was put and carried and allowed to stand part of the Bill.

Clause 1 was put and carried and allowed to stand part of the Bill.

The Preamble was put and carried and allowed to stand part of the Bill.

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

' That the Bill be read a third time and passed.' "

" I have nothing particular to add to what I have said during the general discussion of the Bill. I would, however, state once again that it is not the idea of the Government to drive this measure down the throats of all smokers. It is only after going through the reports of the Inspector-General of Police that though the rule prohibiting smoking in places of public resort has been received well by the licensees of cinemas, its working is not satisfactory from the point of view of smokers, that we felt that it was necessary that there should be a little bit of sanction behind the warnings administered by the police officials and the cinema managements. It is the duty of the Legislature to give that sanction so that the object of the Bill may be achieved. I know that the success of the measure depends upon its execution. There have been instances of attempted disobedience to law. In a law like this, a little accommodation is called for from the smoking public, apart from the question of fire in which smoking in theatres may result. Sir, we do not grant licences for permanent theatres unless there are fire-resistance materials there. Unless the Fire Department of the Government certifies that the materials used are fire-resistant, we do not issue licences. We do take care, for instance, to see that the ceilings are put up with such materials as will resist fire. Apart from this, Sir, there is the question of accommodating one's convenience and feelings; not exactly one's sentiments, but physical condition. Unless we accommodate, life becomes impossible. We must have sufficient force behind us to see that those people who are recalcitrant conform to a certain code of conduct."

MR. CHAIRMAN :—" Motion moved—

' That the Bill be read a third time and passed.' "

16th April 1951]

* SRI B. BHIMA RAO :—" Mr. Chairman, Sir, I want to say a word or two in answer to the points raised by the hon. Gentleman, Dr. Lakshmanaswami Mudaliar. He spoke after I had spoken and so I had no occasion to deal with the points that he raised during the first reading. One of the points of his relating to Fundamental Rights, has already been dealt with. The second point that he as also my hon. Friend, the Lady Member, raised was to the effect that there must be no legislation with a view to effecting social reform. Probably, they are under the impression that this is the first State that has brought forward such a legislation. I have seen, Sir, that such a legislation exists in the State of Mysore. In some of the cinema-houses, we find a board, ' No smoking please '. Last night, an officer of the Central Government was travelling with me. He told me that when he went to a cinema theatre at a place called Shimoga to witness a show and was smoking inside the auditorium, he was told ' You cannot smoke here; you go out '. He added that he obeyed the direction and came out. Unless there was some such legislation, an official of the Central Government would not have been asked to go out. Of course, Sir, that gentleman pleaded Fundamental Rights and I told him the same thing as I said here."

MR. CHAIRMAN :—" Has Mysore State still got special laws? "

* SRI B. BHIMA RAO :—" The ordinary law is there. I do not know whether such laws exist now in view of the adaptation of other laws by Part B States. I have not considered that constitutional point. In my student days, I spent all my time in Bangalore, nearly seven years. In those days, no student in Mysore was smoking."

MR. CHAIRMAN :—" That was about fifty years ago." (Laughter.)

* SRI B. BHIMA RAO :—" Probably, the Government there have found that all of them smoke now and so have introduced legislation. Hence, it is not this State that has introduced such a measure for the first time. And it is not with a view merely to effecting social reform that this legislation is brought forward. There are other reasons which were elaborated by the hon. Gentleman, Sri Suryanarayana Rao and myself. This is, therefore, a necessary measure. I welcome it and wish it were passed *nem con.*"

MR. CHAIRMAN :—" The question is—

' That the Madras City Police and Places of Public Resort (Amendment) Bill, 1951 (L.A. Bill No. 6 of 1951), be read a third time and passed.' "

The motion was carried and the Bill was passed.

[16th April 1951]

(2) THE MADRAS CIVIL AND VILLAGE COURTS (AMENDMENT) BILL, 1951
(L.A. BILL NO. 7 OF 1951).

THE HON. SRI K. MADHAVA MENON :—“ Mr. Chairman, Sir, I move—

‘ That the Madras Civil and Village Courts (Amendment) Bill “, 1951 (L.A. Bill No. 7 of 1951), as passed by the Assembly be taken into consideration.’

“ This is a very simple Bill raising the pecuniary jurisdiction of the Panchayat Court, the Munsif's Court and the Subordinate Court. There are at present a number of anomalies with regard to the respective jurisdiction of each court. For instance, a District Munsif while in headquarters can try cases of a small cause nature whose value does not exceed Rs. 500 while, if he is not in headquarters his jurisdiction is limited to Rs. 300. If there are two District Munsifs, one principal and the other additional, the former can try small cause cases upto the value of Rs. 500 while the latter can go up to Rs. 300 only. These limits were prescribed some twenty years ago and the value of the then three hundred and five hundred rupees has now gone up beyond imagination. These two officers possess the same qualifications, same experience and same service and yet they cannot try cases of the same nature. It is for this reason that we have raised the jurisdiction of the District Munsifs. There will be no difficulty in giving effect to this change, for small cause suits are summarily disposed of. Further, there will be another advantage. The number of suits in the higher courts will be reduced and there will be no pendency in courts in general hereafter.

“ The panchayat courts have a jurisdiction of cases of the value of Rs. 50. As we are increasing the small cause jurisdiction of the Munsif Courts, we must give them some sort of relief so far as cases over the value of Rs. 50 are concerned. The Panchayat Act which has come into force now amends the Village Courts Act so as to make their jurisdiction extend to cases of the value of Rs. 100. But it will take some time for panchayats to be properly constituted under the Act and, therefore, we have by this amendment decided to make their jurisdiction extend to cases of the value of Rs. 100 unlike Rs. 50 as at present, though the panchayat and the village courts can hear cases of the value of even Rs. 250 if both the parties to the suit consent to be so heard. The change in the jurisdiction will be advantageous to the parties in that they can have a quick disposal of their case in the village itself. The small cause jurisdiction of the District Munsif has also been raised which will also be helpful to the contending parties to have early disposal of their cases.

“ Sir, I am also proposing to increase the small cause jurisdiction of the sub-court. There also, it is a wonderfully curious anomaly that a sub-judge sitting in the City of Madras—in the Court of Small Causes—can try cases of the value of Rs. 2,000 and below

[16th April 1951] [Sri K. Madhava Menon]

while the same person, if transferred to a mufassal station, say to the Saidapet Sub-Court, can exercise jurisdiction over cases of the value of Rs. 1,000 and below only. Sir, a sub-judge assumes office as sub-judge after nearly ten years' service as District Munsif and so, he is competent to try cases of any value. There is no reason, therefore, why a distinction should be sought to be made in their respective jurisdiction especially when the presiding officers possess the same qualifications and same efficiency.

“ Then, Sir, the original jurisdiction of the District Munsif has been sought to be raised from Rs. 3,000 to Rs. 5,000. As I said, Sir, what was Rs. 3,000 some twenty years ago is not the same now. It will be Rs. 30,000. When the value of the rupee has gone down so much, there is nothing wrong in raising the jurisdiction of the District Munsif from Rs. 3,000 to Rs. 5,000. This will help to reduce the number of cases pending and also in the speedy disposal of cases in future.

“ Sir, there is a little difficulty here. The appellate jurisdiction of the District Court is Rs. 5,000 and above. If cases of the value of Rs. 5,000 and below are tried by the District Munsif, and if appeals should lie, the appellate jurisdiction of the District Courts must be suitably raised. To increase the appellate jurisdiction of the District Courts is a matter for legislation by the centre. We addressed the Central Government on this matter and they have agreed to bring in legislation to raise the appellate jurisdiction of the District Courts to Rs. 7,500.

“ With these words, Sir, I commend the Bill to the House for its acceptance.”

MR. CHAIRMAN :—“ Motion moved—

‘ That the Madras Civil and Village Courts (Amendment) Bill, 1951 (L.A. Bill No. 7 of 1951), as passed by the Assembly be taken into consideration.’ ”

* SRI B. BHIMA RAO :—“ Sir, I rise to give my partial support to the principle of this Bill. I wish it had been confined to suits for money in which case I would not have risen to sound my note of dissent. The Hon. the Minister for Law knows full well that the value of all immovable properties has increased considerably, especially in the case of lands. The incidence of the Court Fees Act is rather illogical and anomalous. My Hon. Friend, Sri Madhava Menon knows that. To prove the illogicality of the Court Fees Act, I may cite one instance. In my district, the highest assessment payable per acre of ryotwari land is Rs. 2-13-0, i.e., approximately three rupees.

“ Now an acre of land is worth about one thousand rupees. 1-30
If the subject-matter of the land is about 20 acres the assessment P.m.
whereon will be Rs. 60 the value of the subject-matter of the suit for recovery of possession of the land will be ten times, that is Rs. 600. But the market value of the land is Rs. 20,000 and the Court-fee that is to be paid on the recovery of the land is Rs. 67-8-0.

[Sri B. Bhima Rao] [16th April 1951]

"What I say is, they may try suits, where the market value of the subject-matter of the suit may be Rs. 5,000. But, Sir, now there are young officers and in order to try suits of higher value they require some experience."

MR. CHAIRMAN:—"How many minutes more would the hon. Member like to take to finish his speech?"

SRI B. BHIMA RAO:—"I would like to have ten more minutes, Sir."

MR. CHAIRMAN:—"The hon. Member may continue after lunch."

The House rose to meet again at 2-30 p.m.

(After lunch—2-30 p.m.)

* SRI B. BHIMA RAO:—"Sir, I was mentioning about the anomalies and illogicalities of the Court Fees Act. I wish this measure had been confined to suits for money only because after all the increase from Rs. 3,000 to Rs. 5,000 in the jurisdiction of the District Munsif will not affect very much in the case of money suits. But where lands are involved, the prices have increased, in some cases from five to ten times even, and to confer jurisdiction up to Rs. 5,000 on District Munsifs who were recruited recently would not tend to the usefulness of the administration of justice. Hence I at any rate would suggest that an amendment may be brought forward in the near future with regard to suits where landed properties are involved and the market value of the properties has to be determined by the jurisdiction of the Court. Recently the Madras High Court called for the findings of the Bellary District Judge where the property was valued at Rs. 9,000 and there was reason to believe that the value of the subject-matter was more than Rs. 20,000 and hence a further appeal would lie to the Supreme Court. The party contended that though the valuation was Rs. 9,000 the actual value of the subject-matter of the suit was more than Rs. 20,000. The High Court called for the findings of the District Judge and granted leave for appeal to the Supreme Court.

"In this connexion I may also state that in the State of Mysore there is provision for Munsifs to try suits up to Rs. 3,000, Sub-Judges up to Rs. 10,000 and in any suit where the market value of the subject-matter of dispute is more than Rs. 10,000, the District Judge alone has got jurisdiction to try the suit. Hence with regard to suits where the subject-matter is landed property valued at more than Rs. 5,000, it may not conduce to the efficient administration of justice if this Bill was made applicable. Therefore I suggest that in the immediate future a separate Bill may be brought forward with regard to suits where the subject-matter of dispute is landed property and the market value of such properties may be made the criterion for the jurisdiction of the respective courts. With these observations I give limited support to this measure."

16th April 1951]

* SRI R. SURYANARAYANA RAO:—"Sir, I am very glad Government have brought forward this Bill. My only grievance is the increased jurisdiction given to the courts is not commensurate with the increase in the value of the property as was mentioned by the hon. Gentleman Sri Bhima Rao. The Retrenchment and Reorganization Committee when it made this recommendation had mostly in view the rise in the value of immovable property. The value of immovable property has risen to three or four times its original value in many cases, so that property worth Rs. 100 before is now worth about Rs. 300 or Rs. 400. By keeping the old limits we restricted the jurisdiction of the various courts and so we suggested that the jurisdiction should be increased. I hope Government will consider the question as a whole, as was suggested by the hon. Gentleman Sri Bhima Rao, include the jurisdiction of the District Courts and bring forward a comprehensive Bill at an early date allocating jurisdiction to various courts, consistent with the increase in the value of property. For the present I feel the step taken by Government is in the right direction.

"Sir, misgivings have been expressed in certain quarters regarding the increased jurisdiction given to the Village Courts. The Village Panchayats Act which gives power to these panchayats for trying civil suits will be put into effect very soon and these village panchayats will come up all over the State—we hope in as many places as possible. Though on principle I am against the executive body being vested with judicial power, the village panchayats that would come into existence will be elected bodies and the jurisdiction that is sought to be given to these bodies will be only about Rs. 100—raised from Rs. 50 to Rs. 100. When these panchayats are brought into existence the jurisdiction of certain of these at least may be raised to more than Rs. 100 and I hope that Government would come forward with a Bill to take that power, because many village panchayats are sure to function and as a matter of fact some of them are already functioning. Therefore I hope Government will review the whole position as soon as possible after the panchayats come into existence and bring forward a comprehensive Bill to increase the pecuniary jurisdiction of the various courts, from the Panchayat to the District Courts.

"Incidentally I want to say a few words about the jurisdiction of the City Civil Courts also, but unfortunately the Hon. Minister for Law is not here. It was under the consideration of the Government whether the original jurisdiction of the High Court which sits on the original side especially where the transactions in the City are concerned as also the criminal sessions held by the High Court should continue or whether a separate district and sessions court should be created for the City itself as Bombay has done. I was told that there was opposition from the Bar to Government interference regarding the present position. I hope all these matters will engage the attention of the Government whether the present Government continues in office or not after the election, and they should not hesitate to bring forward the reforms which are calculated to improve efficiency in the dispensation of justice to the public in an easy manner. With these words I support the Bill."

[16th April 1951]

2-45 p.m. THE HON. SRI B. GOPALA REDDI :—" Sir, after all this is not a controversial Bill. As far as I am concerned, I have heard the views of hon. Members Sri Bhima Rao and Sri Suryanarayana Rao. They have raised very many points, especially with regard to the jurisdiction of the Original Side of the High Court and so on. I think this was under consideration for a long time for one reason or other and especially in view of the views expressed by the High Court we could not proceed with the legislation. In the case of City Civil Courts also, we will have to consult the High Court and without their views we cannot proceed further. We will certainly examine the position when the Panchayats Act comes into force and when the village panchayats are vested with these powers. Since it is a non-controversial Bill, I move that the Bill may be taken into consideration at once."

MR. CHAIRMAN :—" Has the Hon. Sri Madhava Menon anything to add to what has already been said by the Hon. Sri Gopala Reddi? "

THE HON. SRI K. MADHAVA MENON :—" Sir, I have not got anything to add."

MR. CHAIRMAN :—" The question is—

'That the Madras Civil and Village Courts (Amendment) Bill, 1951 (L.A. Bill No. 7 of 1951), as passed by the Assembly be taken into consideration.'

The motion was carried and the Bill was taken into consideration.

Clauses 2 and 3 were put and carried and allowed to stand part of the Bill.

Clause 1 was put and carried and allowed to stand part of the Bill.

The Preamble was put and carried and allowed to stand part of the Bill.

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

'That the Madras Civil and Village Courts (Amendment) Bill, 1951 (L.A. Bill No. 7 of 1951) as passed by the Assembly, be read a third time and passed.'

Sir, I am not aware of what the other hon. Member has said about this Bill. The hon. Member Mr. Bhima Rao said that he gave partial support to this Bill. It is usual that the Headquarters Bar objects to the jurisdiction of the district munsifs being increased whereas the mufassal Bar unanimously supports the increase. I may mention, Sir, Mr. Bhima Rao comes from the Headquarters Bar."

MR. CHAIRMAN :—" Motion moved—

'That the Madras Civil and Village Courts (Amendment) Bill, 1951 (L.A. Bill No. 7 of 1951), as passed by the Assembly, be read a third time and passed.'

16th April 1951]

SRI B. BHIMA RAO :—" Sir, the Hon. Minister was not present when I made the speech after lunch. I only suggested that, as the value of land has risen considerably higher, the jurisdiction of the respective courts might be determined in accordance with the market value of the land. If only the Hon. Minister reads my speech after lunch, he will know that, so far as money suits are concerned, I have extended my full support. But, in regard to landed properties, I was requesting the Government to bring in a logical measure taking into consideration the market value of the landed properties."

THE HON. SRI K. MADHAVA MENON :—" Sir, it is true there are some anomalies. We have already taken up the matter and hope to bring forward an amending Bill when the House next meets."

MR. CHAIRMAN :—" The question is—

'That the Madras Civil and Village Courts (Amendment) Bill, 1951 (L.A. Bill No. 7 of 1951), as passed by the Assembly be read a third time and passed.'

The motion was carried and the Bill was passed.

(3) THE MADRAS HACKNEY CARRIAGE (AMENDMENT) BILL, 1951
(L.A. BILL NO. 8 OF 1951).

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

'That the Madras Hackney Carriage (Amendment) Bill, 1951 (L.A. Bill No. 8 of 1951), as passed by the Assembly, be taken into consideration.'

Sir, we are only effecting a change in the definition of 'Hackney carriage.' As matters stand, Government vehicles also come under the definition. The Agricultural Department owns a number of carts in their farms and they do not usually ply for hire. If a ryot takes manure in the cart belonging to the Agricultural Department, some hire charges will be collected and it is now being interpreted as plying for hire. So, Government want to exclude vehicles owned by the Government from the definition 'Hackney carriage'."

MR. CHAIRMAN :—" The question is—

'That the Madras Hackney Carriage (Amendment) Bill, 1951 (L.A. Bill No. 8 of 1951), as passed by the Assembly, be taken into consideration.'

The motion was carried and the Bill was taken into consideration.

Clause 2 was put and carried and allowed to stand part of the Bill.

[16th April 1951]

Clause 1 was put and carried and allowed to stand part of the Bill.

The Preamble was put and carried and allowed to stand part of the Bill.

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

' That the Madras Hackney Carriage (Amendment) Bill, 1951 (L.A. Bill No. 8 of 1951), as passed by the Assembly, be read a third time and passed. '

Mr. CHAIRMAN :—" The question is—

' That the Madras Hackney Carriage (Amendment) Bill, 1951 (L.A. Bill No. 8 of 1951), as passed by the Assembly, be read a third time and passed. '

The motion was carried and the Bill was passed.

(4) THE MADRAS WILD ELEPHANTS PRESERVATION (AMENDMENT) BILL, 1951 (L.A. BILL NO. 10 OF 1951).

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

' That the Madras Wild Elephants Preservation (Amendment) Bill, 1951 (L.A. Bill No. 10 of 1951), as passed by the Assembly, be taken into consideration. '

Sir, it has had a very, very interesting discussion in the other House. There is considerable amount of discrimination shown between male and female or cow or Mrs. elephant. Under the existing Act, in the case of male elephants, the Collector is empowered to notify that a certain elephant is a rogue elephant and issue a licence to anybody to shoot it. But, in the case of female elephants, he has no powers, and the Revenue Board has to authorize him to issue a licence. In many cases before the Revenue Board authorizes him and before the female rogue elephant is shot, there is much loss to life and property. It may be that males may turn rogue more often than females. But, when once the female elephants turn rogue, they are much worse than the male elephants and by the time the Collector writes to the Revenue Board and gets authorization to issue licence to destroy the animal, much mischief would have been done. So, Sir, by this amending Bill, we are permitting the Collector to give licence to shoot a female rogue elephant as in the case of male elephant. Putting it humorously, the Constitution is being applied to animals also to avoid discrimination between sexes." (Laughter.)

Mr. CHAIRMAN :—" Motion moved—

' That the Madras Wild Elephants Preservation (Amendment) Bill, 1951 (L.A. Bill No. 10 of 1951), as passed by the Assembly, be taken into consideration. '

Mrs. MONA HENSMAN :—" Mr. Chairman, Sir, I rise to speak on this Bill of Wild Elephant Control because the Hon.

[16th April 1951] [Mrs. Mona Hensman]

Minister seems to impute motives of revenge or fierceness or fury on the part of the women in the elephant world as against men of the same genus. Under the existing Act the Board of Revenue has to authorize the Collector to issue the licence to shoot a female elephant instead of the man on the spot—the Collector of the District—and the reason is not far to seek. The female elephant will have some calves and that is probably the reason why the Board has reserved this power. This Bill has not taken into account the other side. But I am sure the Minister will own that generally it is the gentleman elephant that will make the female elephant turn rogue. He treats her badly, or neglects her: She reaches the limits of her control, and becomes mad with rage and revenge."

Mr. CHAIRMAN :—" The female has made him rogue."

* Mrs. MONA HENSMAN :—" It is obvious Sir, that the Hon. Minister has got a real reason behind this apparent injustice to female elephants and so I would not oppose this Bill, but I would ask him to be cautious in giving larger powers to the Collector to issue licences to shoot female elephants and to remember that the lives of the other smaller elephants will depend upon them. The preservation of the race depends on it. As the Hon. Minister has always a reason behind the Bills he brings forward, I hope that he will bring in some suitable amendment, or control the issue of licences suitably."

THE HON. SRI K. MADHAVA MENON :—" Sir, I am glad that even the female rogue elephants find support in the hon. Lady Member Mrs. Hensman. I may assure her that the desire to preserve the genus of elephants must have been the reason why a distinction was made between male and female elephants. Normally they conceive once in 10 years and bring forth one calf unlike the pigs which bring forth ten at a time." (Laughter.)

Mr. CHAIRMAN :—" I hear people telling that the theory that the period of conception is 12 years is not correct and that it is only 18 months."

THE HON. SRI K. MADHAVA MENON :—" The period of gestation is 18 months."

Mr. CHAIRMAN :—" That is why it is said 'Gajagarbham.'"

THE HON. SRI K. MADHAVA MENON :—" The desire that the progeny should not die, may be the reason for this distinction."

" So, Sir, there are instances where female elephants have turned rogue and considerable mischief has been done before the Collector has got the authorization from the Revenue Board to kill it. The object of this amending Bill is to take away that difficulty. Even in regard to giving licence, the Collector has

[Sri K. Madhava Menon] [16th April 1951]

to notify, give the identification of the particular elephant and then give licence to shoot it. It is very, very improper that female elephants should be shot. But, when the question is whether the elephant should live or the man should live, we have to prefer the latter."

MR. CHAIRMAN :—" The question is—

' That the Madras Wild Elephants Preservation (Amendment) Bill, 1951 (L.A. Bill No. 10 of 1951), as passed by the Assembly, be taken into consideration.' "

The motion was carried and the Bill was taken into consideration.

Clause 2 was put and carried and allowed to stand part of the Bill.

Clause 1 was put and carried and allowed to stand part of the Bill.

The Preamble was put and carried and allowed to stand part of the Bill.

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

' That the Madras Wild Elephants Preservation (Amendment) Bill, 1951 (L.A. Bill No. 10 of 1951), as passed by the Assembly, be read a third time and passed.' "

MR. CHAIRMAN :—" The question is—

' That the Madras Wild Elephants Preservation (Amendment) Bill, 1951 (L.A. Bill No. 10 of 1951), as passed by the Assembly, be read a third time and passed.' "

The motion was carried and the Bill was passed.

(5) THE MADRAS BORSTAL SCHOOLS (AMENDMENT) BILL, 1951
(L.A. BILL NO. 11 OF 1951).

3 p.m. THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

' That the Madras Borstal Schools (Amendment) Bill, 1951 (L.A. Bill No. 11 of 1951), as passed by the Assembly be taken into consideration.'

Sir, there are three points in this Bill. The first is the interchange of Borstal School pupils from one State to another. We get a number of cases, mostly from Bombay, where Madras boys are convicted in Bombay and sent to Borstal Schools there. The Bombay Government amended their Borstal Schools Act with the permission of every other State in such a way as to permit the transfer of such boys belonging to other States because they will not be of use to them. Naturally, according to this amendment, if the Bombay Government write to us, we take those boys belonging to our State in our Borstal Schools. Similarly we send the boys belonging to other States who are convicted here to those

16th April 1951] [Sri K. Madhava Menon]

particular States. Strictly speaking, there is no legal sanction for it. We have no orders to do so and it cannot be done. So, this Bill seeks to amend the Borstal Schools Act to permit of such transfers from one State to another. As I said, the Bombay Government have already passed a legislation similar to this permitting such a transfer. It is a reciprocal arrangement permitting such transfer.

" The second point is this, namely, that the probation work done by Probation Officers should also include probation work regarding Borstal School boys. Now, the probation work does not apply to them. That is why we want a provision to be made extending the scope of the work to Borstal Schools so that probation work may extend to Borstal boys also and they can be improved. It would be so much the better.

" The third point is that at present, the Visiting Committee has to declare a person in a Borstal School as incorrigible. Then only he can be sent away from the school. Here, in this Bill, we are substituting the words ' Visiting Committee ' by the word ' Superintendent.' The Superintendent acts as the Head of the institution. He is the person who is seeing the boy every day and he knows the condition of the boy, whether he is incorrigible or not. When the Superintendent makes the recommendation as the Head of the institution, the Superintendent naturally consults the Visiting Committee. In no case, he makes the recommendation without consulting the Committee. We want that the power of recommendation should be with the Head of the institution and not with the Visiting Committee. These are the three matters which are embodied in the amending Bill."

MR. CHAIRMAN :—" Motion moved—

' That the Madras Borstal Schools (Amendment) Bill, 1951 (L.A. Bill No. 11 of 1951), as passed by the Assembly be taken into consideration.' "

* SRI R. SURYANARAYANA RAO :—" Mr. Chairman, Sir, I am sure all hon. Members of this House support the provisions of this Bill. Sir, I would take advantage of this occasion to ask the Hon. Minister to tell us if he is going to have more Borstal Schools opened in this State. Now, there is only one Borstal School at Palamcottah."

THE HON. SRI K. MADHAVA MENON :—" I have already opened a Borstal School in my hon. Friend's district of Bellary by converting the Alipuram Jail into a Borstal School."

* SRI R. SURYANARAYANA RAO :—" Sir, I am grateful to the Government for doing it. If there is need,—and I hope there will not be—they should open more Borstal Schools. I am sure, the Government must have noticed the other day, the remarks of an Hon. Judge of the High Court in delivering judgment in a case where a woman was convicted for some offence. The Hon. Judge wondered why no provision had been made for women Borstal

[Sri R. Suryanarayana Rao] [16th April 1951]

Schools. I do not know, Sir, the number of women that come under the Madras Borstal Schools Act who have to be accommodated in these Borstal Schools. If the number is considerable, I hope Government will take steps to open a separate Borstal School for women. Till then, I would like to know what arrangements are being made by the Government to take care of women who are now convicted and who should go to Borstal Schools. That is a very important question. Sir, we are very grateful to the Hon. Judge of the High Court for drawing our attention to this. Though we have been reading reports of Borstal School Administration, we did not notice that there was such a question as Borstal School for women. We knew that the Palamcottah school was very crowded and the Hon. Minister knew that it was very difficult for the authorities to manage. The Hon. Minister himself has seen the place and the boys in that school and he knows how crowded the school is and how its condition is so bad; I am glad he has kindly converted the Alipuram Jail into a Borstal School. Another thing I would like to ask the Hon. Minister, taking advantage of this opportunity is this. I want to know whether arrangements have been made by Government to train personnel who have to be in charge of such schools. The management of these institutions is a technique, whether they be Certified Schools or Borstal Schools. Sir, without casting any aspersion, even our Chief Inspector of Certified Schools should be qualified, and he should know something of this technique. If he is not qualified and if there is no trained personnel, why not the Government send some young men who have the aptitude for this kind of work to foreign countries as they did in the case of Probation Officers? I think one or two Probation Officers were sent to foreign countries to get training. I am sure if such persons who have got aptitude are sent out and given training and if they are put in charge of these boys who are committed to the Certified Schools or Borstal Schools, they will bring to bear upon their task humane methods of treating these boys and reclaim these boys, who, owing to various circumstances, are forced to commit crimes. I am sure the Hon. the Minister for Law, who has a kindly interest towards these boys, will, as soon as possible, consider this suggestion and give effect to it, without waiting for the next Budget even, and make arrangements to see that a sufficient number of officers who are required are given such training. Much more than that, he should also see that the position of those who are sent up for training is made secure when they come back after training. Sometimes, our Government send persons for foreign training and as soon as they return, they have no place here. It should not be like that in this case. It should be a deputation by the Government after taking a guarantee that they would be required to come and serve the Government for a particular number of years. I have no doubt that such a thing can be arranged. I would like him to take this matter very seriously into consideration. Incidentally, I would like him to depute a woman officer also for training to deal with women offenders who have to be committed either to the Borstal Schools

16th April 1951] [Sri R. Suryanarayana Rao]

or to the Certified Schools. Sir, much of the work of these institutions depends upon the persons in charge and I hope that the Hon. Minister will bestow more attention on this, even during the time he is Minister for Law and see that these reforms are introduced so that the generations to come may be benefited by the good influence which these institutions are bound to exercise, if the officers in charge of these institutions are really specially trained for the purpose."

* SRI B. BHIMA RAO :—" Sir, I want to make one remark about clause 6 of this Bill. I am in perfect agreement with the Hon. Minister for Law about the provision with regard to the transfer of these inmates from one State to another. But, with regard to this clause 6, which seeks to abolish these Visiting Committees and to make the judgment of the Superintendent of the Institution final in the matter, whether a certain inmate is incorrigible or not, I think, Sir, the measure is a retrograde one. Sir, in the course of my association with this organization I have come across various complaints where the members of the Visiting Committees have made representations to me that in all Borstal Schools . . . "

THE HON. SRI K. MADHAVA MENON :—" All Borstal Schools? There is only one in Tirunelveli."

* SRI B. BHIMA RAO :—" With regard to the Certified Schools, the members of the Visiting Committee will have to consult the Superintendent of the Institution. With regard to Borstal Schools also, it is the same. But, Sir, the Superintendent may have certain prejudices against certain inmates. So, the judgment of an independent body such as those of the members of the Visiting Committee, I think, will be more impartial than that of the Superintendent who is obviously biased and prejudiced against certain inmates. That being the case, it would be better to rely upon the opinion and judgment of the Visiting Committee rather than on the sole judgment of the Superintendent in this matter. Therefore, I urge that clause 6 may be dropped and the other provisions of the measure passed."

THE HON. SRI K. MADHAVA MENON :—" Sir, the remarks of the hon. Member do not affect the principle underlying the Bill which only relates to transfer of Borstal School boys from one State to another. But, my hon. Friend said that he took advantage of this occasion to remind this House about the remark recently made by His Lordship, Justice Panchapakesa Ayyar, in a case where a woman was convicted for infanticide. It is a case of murder and the Hon. Judge of course convicted her for murder but recommended to the Government that the sentence may be reduced to a period of two years. But he has forgotten that once he convicts her, there is no provision under the Borstal Schools Act to send that woman to the Borstal School."

MR. CHAIRMAN :—" I think the Hon. Mr. Justice Panchapakesa Ayyar's observations are covered by clause 5 of this

[Mr. Chairman] [16th April 1951]

Bill. It refers to offenders. The term may include women offenders also. So, provision must be made by the Government for women offenders also."

THE HON. SRI K. MADHAVA MENON:—"It can come under it, Sir. But, the unfortunate part of the remark of the Hon. Judge was that he also mentioned that it is a clear case of discrimination between 'male' and 'female' and that the present Act offends the Constitution. Incidentally, let me inform those who have been thinking that the present Act offends the Constitution and that there is difference shown between 'male' and 'female' in this Act, this fact was not also brought to the notice of the Hon. Judge and this information was not made available to him that there are Borstal schools for women offenders also, though they are not of the type existing for boys. Government are going to incorporate a provision to include these adolescent women offenders also under the Borstal Schools Act. Let us not confuse these adolescent women offenders with other women convicts. We have got Certified Schools for Girls where there are about 220 girls. But, these are for juvenile offenders who are girls. Formerly, they were part of the Jail Department. But, now these schools have been improved and brought under the Chief Inspector under the Children's Act.

3-15 P.M. "The headmasters of Certified Schools are qualified teachers. They are B.A., L.Ts. and so on. They are also specially trained in the treatment of juvenile delinquency. So it is not necessary that the administrative head should have any further qualification, though it will be good if he also has some additional qualification. The teachers, as I said, are trained in the treatment of juvenile delinquency. The Borstal School is a corrective institution for adolescent offenders who are more than 16 years of age and who have committed grave crimes like murder, dacoity, theft and so on. The sentences are suspended by the Judge and there is provision to send the offender to a Borstal School. But in the case of women, particularly young women who commit offences like infanticide, there may be justifiable reasons. There may be justifiable reasons even for the murder of husbands. In such cases, after the conviction the judges recommend that the Government may commute the sentence under section 401. Though the Government do not themselves run a Borstal School for women offenders, we send them to the Seva Sadan if they are Hindus and to the Salvation Army Home if they are non-Hindus. The option is given to the prisoner concerned and generally the non-christian prisoners prefer to go to the Seva Sadan. They are kept there for a maximum period of two years during which they are given some useful training and thereafter they are released. As a matter of fact there are Borstal Institutions for adolescent female offenders also though they are privately managed institutions. The Government meet the entire cost of the convicts sent to the institutions run by the Salvation Army and the Seva Sadan. The number of young women offenders over 16 years of age is much smaller than the number of boy offenders. Therefore, it will be very costly for

16th April 1951] [Sri K. Madhava Menon]

the Government to run an institution for them. Perhaps it is better managed by a non-official agency. That is why we have taken advantage of the existence of the Seva Sadan and the Salvation Army homes. If more homes like these are available, we will certainly send these women offenders to them."

MR. CHAIRMAN:—"Have the Seva Sadan and the Salvation Army no objection to take such convicts?"

THE HON. SRI K. MADHAVA MENON:—"They have offered to take them. They are training them in various arts and crafts."

MR. CHAIRMAN:—"Have they no objection to mixing up these convicts with other inmates?"

THE HON. SRI K. MADHAVA MENON:—"They are probably keeping them in a separate department and not mixing them with other inmates. They practically run a separate home for them. After a period of probation they mix them along with other inmates. In the case I referred to, it was not brought to the notice of His Lordship that there are Borstal Schools for women adolescent offenders also.

"My hon. Friend Mr. Bhima Rao objected to clause 6. We are not removing the Visiting Committee at all. He referred to Certified Schools. There is no question of declaring boys in a Certified School incorrigible because they are all juveniles below 16 years of age. We did not feel that they will be incorrigible at all. The boys of the Borstal School are between the ages of 16 and 23 and some of them may be very incorrigible and their presence may have a very bad influence on the other inmates of the school. The Visiting Committee meets once in a quarter. The Superintendent sees the boys once in a day. What I am saying does not apply to Certified Schools at all. My hon. Friend should not confuse Certified Schools with Borstal Schools. In the case of Certified Schools there is no question of declaring a boy incorrigible and sending him to jail. In the case of Borstal Schools, the Superintendent watches the day-to-day progress of the boys and reports the matter to the Visiting Committee which meets once in a quarter. Sometimes even if the Visiting Committee wants to declare that a boy is incorrigible the Superintendent refuses to declare him so. Under section 14 of the Act, the body who is to report to the Government is the Visiting Committee. The amendment substitutes the word 'Superintendent' for the words 'Visiting Committee'. The Visiting Committee will continue to be there, but the report will be made by the Superintendent instead of by the Visiting Committee. The Visiting Committee will help the Superintendent in all his work. The Superintendent will not declare a boy incorrigible without consulting the Visiting Committee."

MR. CHAIRMAN:—"The question is—

'That the Madras Borstal Schools (Amendment) Bill, 1951 (L.A. Bill No. 11 of 1951), as passed by the Assembly be taken into consideration at once.'"

[16th April 1951]

The motion was carried and the Bill was taken into consideration. Clauses 2, 3, 4 and 5 were put and carried and allowed to stand part of the Bill.

Clause 6.

MR. CHAIRMAN:—"The motion is—

'That clause 6 do stand part of the Bill.'"

* SRI R. SURYANARAYANA RAO:—"Sir, I move—

'That clause 6 be omitted.'

"Sir, the Hon. the Law Minister just now said that the Visiting Committee exists but that the fact that a boy is incorrigible is to be reported by the Superintendent. He also mentioned, if I remember aright that the Superintendent would do it after reporting the matter to the Visiting Committee. I think, Sir, that it is not the intention of the amendment. The amendment seeks to empower the Superintendent irrespective of the advice of or consultation with the Visiting Committee to report to the Government or to any other prescribed authority about the incorrigibility of a boy. That is why, Sir, we all felt that having a Visiting Committee, the Superintendent acting as it were as the Secretary of the Visiting Committee, and this system having gone on all these years, there was no necessity for changing the present system. Did the Visiting Committee prove incorrigible necessitating this change? The Hon. Minister said that even if the Superintendent wanted a boy to be declared to be incorrigible, the Visiting Committee did not declare him so."

THE HON. SRI K. MADHAVA MENON:—"It is just the other way."

SRI R. SURYANARAYANA RAO:—"Yes, Sir. Therefore, I would like to know what was the necessity to remove the power of the Visiting Committee. If the Superintendent is to act under this provision without prior consultation with the Visiting Committee, it may be, Sir, that the Members of the Visiting Committee may not evince as much interest in the working of the institution as they should and as they have been doing all these years. What necessitated the proposed change, the Hon. Minister has not told us. Has there been any delay in reporting about the incorrigibility of a boy because the Visiting Committee could not meet often? If it is so, could not any special provision be made by which, if the Visiting Committee is not meeting in time and if the circumstances so demanded, the Superintendent can report direct to the Government about the incorrigibility of a boy? What is the necessity for this change, Sir? It makes many people feel that this is slighting the Visiting Committee. After all, the Superintendent is the man who has to bring the facts of the case to the notice of the Visiting Committee. The members of the Visiting Committee are not present there every day. It is the Superintendent who is in touch with the boy and he puts the facts before the Visiting Committee. The decision of the Visiting Committee

16th April 1951] [Sri R. Suryanarayana Rao]

would strengthen the recommendation of the Superintendent in case he wants a boy to be declared incorrigible and as a result of that the boy may be committed to prison. The boy will be removed from the Borstal School to a prison. When such a change is going to take place in the environment of the boy, would it not be better if the decision was taken in consultation with the Visiting Committee rather than the Superintendent taking action without prior consultation with the Visiting Committee? That is the point, Sir, which I wish to put forward. The Superintendent is certainly the man most competent to report the facts of the case. But why should he not await the decision of the Visiting Committee when a change is to take place in the status of the boy? That is the purpose for which I have moved my amendment. I have nothing to say against the Superintendent. I do not want to say anything to detract from the position of the Superintendent. Certainly he is the ultimate authority in charge of the school. With these remarks, Sir, I move that clause 6 may be deleted altogether."

SRI M. D. T. KUMARASWAMI MUDALIYAR:—"I second the amendment."

MR. CHAIRMAN:—"Amendment moved—

'That clause 6 be omitted.'"

THE HON. SRI K. MADHAVA MENON:—"Sir, I invite the attention of the hon. Member to section 3 of the Madras Borstal Schools Act, 1925. It runs as follows:—

'3 (1) For the purposes of this Act, the Provincial Government may establish one or more Borstal Schools.

(2) For every Borstal School a Visiting Committee shall be appointed by the Provincial Government.'

The powers of the Visiting Committee are given in section 19-B. The section runs as follows:—

'19-B (1) (a) Every Visiting Committee appointed under sub-section (2) of section 3 shall consist of the Sessions Judge, the District Magistrate, the District Educational Officer of the district in which the school is situated and four non-official members appointed by the Provincial Government.

(b) The non-official members shall hold office for a period of two years but shall be eligible for reappointment on the expiry of that period.

(2) It shall be the duty of the Visiting Committee and its members—

(a) to visit the school either individually or collectively on such occasions as may be fixed by the rules made under this Act in that behalf for the purpose of ensuring that the provisions of this Act are duly given effect to;

(b) to make such suggestions for the improvement of the training therein as are considered necessary and to report to the Provincial Government or to the Inspector-General from time to time any matter, which, in their opinion, should receive attention and annually on the progress of the school;

(c) to interview the inmates immediately after their arrival and to make suggestions, if any, as to the special training which each should receive;

[Sri K. Madhava Menon] [16th April 1951]

(d) to consider cases of release on licence under sub-section (1) of section 15 placed before them by the Superintendent; and

(e) to consider such action as may be necessary in regard to the inmates whose term of detention is about to expire.

(3) Subject to such rules as may be made in that behalf by the Provincial Government every member of the Committee shall be entitled to call for information from the Superintendent, to examine the records of the school and to take such other action as he deems necessary for the due discharge of his duties.

"These are the functions of the Visiting Committee which I am not changing at all. What I am changing here is, where a report is to be made to the State Government that a boy is incorrigible, instead of it being made by the Visiting Committee as at present, we say that it should be made by the Superintendent. The Superintendent will report to the Government that the boy is incorrigible or is exercising a bad influence on the other inmates of the school or that he is over 23 years of age. Then the State Government may commute the unexpired residue of the term of detention to such term of imprisonment of either description as the State Government may determine. If the boy is incorrigible he will be sent to jail. If he is otherwise, the Superintendent will recommend to the Government that the unexpired portion may be remitted. These reports are to be made by a person who knows the boy from day to day. The report that a boy 'is exercising a bad influence on the other inmates of the school' or that he is incorrigible has to be made not by the Visiting Committee but by the Superintendent. Otherwise the powers of the Visiting Committee are not at all touched by the amendment. Section 19-B remains as it is."

* SRI R. SURYANARAYANA RAO :—"Sir, the report that the Superintendent makes is a much more serious thing because on that report the boy is either released or sent to prison. I think therefore that it should be made by the Visiting Committee and not by the Superintendent."

The amendment was put and lost.

Clause 6 was put and carried and allowed to stand part of the Bill.

Clauses 7 and 1 were put and carried and allowed to stand part of the Bill.

The Preamble was put and carried and allowed to stand part of the Bill.

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

'That the Bill be read a third time and passed.'"

MR. CHAIRMAN :—"Motion moved—

'That the Madras Borstal Schools (Amendment) Bill, 1951 (L.A. Bill No. 11 of 1951), be read a third time and passed.'"

The motion was carried and the Bill was passed.

16th April 1951]

(6) THE MADRAS ANATOMY BILL, 1951 (L.A. BILL NO. 12 OF 1951).

* THE HON. DR. T. S. S. RAJAN :—"Sir, I beg to move— 3-30 p.m.
'That the Madras Anatomy Bill', 1951 (L.A. Bill No. 12 of 1951), as passed by the Assembly, be taken into consideration.'

Sir, this Bill was passed by the Assembly after some discussion. The point really is this: there is no law at present in this State which empowers the Government to take charge of dead bodies if they are not claimed by institutions which do some service to the dead bodies."

MR. CHAIRMAN :—"Why is this called the Anatomy Bill, Doctor?"

* THE HON. DR. T. S. S. RAJAN :—"I am coming to that. First of all, the dead body must be there for the purpose of making anatomical teaching possible, that is, teaching about the various limbs of the human body and how the human body is made. This is the first time we are going to have an Act like this for taking charge of dead bodies. By this Act, we make it possible to infer that the dead bodies really belong to the State, if I may say so. But the object is not exactly that; we as a State have not so far developed that humanitarian or that sympathetic instinct towards dead bodies as such. The fact is that our medical institutions have increased enormously in number, and what is more, we have got to teach anatomy as a science even in medical institutions in which it was not being taught before. The School of Indian Medicine is now teaching anatomy. No anatomy is worth teaching unless it is followed by demonstration of dead bodies. For this purpose, the provision must be there to enable the State to take possession of the dead bodies and hand them over to institutions where the teaching is to be made. Of course in cases where dead bodies are claimed by relatives, we are not going to quarrel at all; it is only in cases where the bodies are not claimed that we propose to take charge of them. Such a measure is in existence in the other States and it is time we enacted it even in our State. So, the simple purpose is that dead bodies which are unclaimed will be taken charge of by the State for the purpose of teaching anatomy to the students who are studying in medical schools and colleges."

MR. CHAIRMAN :—"Is there any objection to that kind of thing being done now, without this measure?"

* THE HON. DR. T. S. S. RAJAN :—"Of course we are now getting dead bodies, and nobody seems to object, but it is not under the provisions of any law that we are doing it. We are now making a law, so that such a thing cannot be done hereafter according to the whim and fancy of any individual, and so that legally we may be right in taking charge of the dead bodies."

[16th April 1951]

MR. CHAIRMAN :—" Motion moved—

' That the Bill to provide for the supply of unclaimed bodies of deceased persons to teaching medical institutions for the purpose of anatomical examination and dissection, 1951 (L.A. Bill No. 12 of 1951), as passed by the Assembly be taken into consideration.' "

* JANAB K. T. M. AHAMED IBRAHIM :—" Mr. Chairman, Sir, it is my painful duty to enter my emphatic protest against the provisions of this measure. I am quite conscious of the fact that this measure is intended for the advancement of medical science, a science which of course is most important and in which all of us are very much interested. However, I am emphatically of opinion that the practice that is in vogue at present for providing dead bodies for medical institutions is sufficient for the purpose and may be followed in future also. If, as the Hon. Dr. Rajan says there is no legislative sanction for the present practice to be continued, that practice may be embodied in a Bill and enacted into law by the Legislature. The provisions of this Bill, however, go too far to receive the consent of the public. This Bill touches the long-cherished religious susceptibilities of the various classes of society. From time immemorial, humanity, especially in our country, has been honouring the dead, although different methods have been followed by various classes of society in different times for the performance of the obsequies of the dead. The general principle however has been that if any person is left uncared for after his death, it is the duty of the society to perform the necessary obsequies to the dead. In the first instance the duty is cast on the relatives; and if there are no relatives to discharge that duty, the duty is cast on society. Various religious communities have got their own methods of discharging this duty. It is mostly considered as a pious and meritorious act to discharge this duty. This accounts for the existence of certain organizations in various parts of the country, for the purpose of performing the obsequies in respect of unclaimed dead bodies. In very many cases, the whole congregation in the locality or near the hospital in which the dead body is left unclaimed, takes upon itself the responsibility of discharging this duty.

" In some communities like the Muslim community, the duty of performing this function is cast on the whole society. If, however, any particular member of that society discharges that duty, then the whole community is deemed to have discharged the same, but if the duty is not discharged by any member of the community, then the whole community is considered to have committed a sinful act. Now, Sir, the provisions of this Bill are such that they stand in the way of the discharge of this pious duty by certain sections of the population. It is true that under clause 4, if there are near relatives claiming the dead body, it cannot be given to any medical institution; but it is not fair or proper to limit and circumscribe the circle of claimants only to near relatives! There may be cases where persons are more attached

16th April 1951] [Janab K. T. M. Ahamed Ibrahim]

to friends than to near relatives including even parents and sons. There may also be cases in which disciples are more attached to their gurus than their own relatives. There may also be cases where a man had gone to his friend's house and later entered a hospital for treatment of sickness and there may not be any 'near relatives' present in the locality. If such persons die in the hospital, then their dead bodies cannot be claimed by the friend or disciple because he is not a 'near relative' and so these dead bodies will have to be handed over to medical institutions. So also in the case of great saints and religious gurus and priests who may be travelling from place to place; there may not be any 'near relative' at all in the place where they may die, and their dead bodies will have to be declared as 'unclaimed' dead bodies and sent to medical institutions for being dissected, though as a matter of fact there may be numerous disciples in the locality to take charge of the dead body and perform the necessary obsequies. A friend from the mufassal may come to me and he may ask me to help him to get good medical treatment because there is no good medical facility in his own place; he may be treated at first by some private physician here and may be advised by medical experts to get himself admitted in the hospital and unfortunately he may die there. Though he came to me thinking I would help him, I cannot take charge of his body, and the dead body would be declared as 'unclaimed', just because I cannot claim to be a 'near relative'. So, Sir, there is a lacuna in this measure from this aspect and I must enter my emphatic protest against this Bill. The best thing that can be done now is to circulate this Bill for eliciting public opinion, and after getting public opinion, the Bill may be altered in such a manner as to conform to the wishes and the religious susceptibilities of the various sections of the population. Again, Clause 4 (2) refers . . ."

MR. CHAIRMAN :—" Is the hon. Member definitely moving a motion for circulation of the Bill for public opinion? "

JANAB K. T. M. AHAMED IBRAHIM :—" If the Chairman allows me, I shall move it; I am anxious to move for circulation because this is a very important measure."

MR. CHAIRMAN :—" You please go on with your speech, I will tell you later."

JANAB K. T. M. AHAMED IBRAHIM :—" Again, in clause 4 (2), there is a provision to the effect that—

' If a person dies in any public place in an area in which he had no permanent place of residence and the body of that person is not claimed by any of his near relatives within such time as may be prescribed.'

the dead body will be declared as 'unclaimed'. The term 'public place' is not defined anywhere in this Bill. I tried to find out its definition from both the Indian General Clauses Act and the local Acts; and I found that the term is not defined in any

[Janab K. T. M. Ahamed Ibrahim] [16th April 1951]

of them. In the Madras General Clauses Act (Act I of 1891) however I find the word 'public' defined as follows: 'Public' includes any class of the public or any community" and the word 'place' is defined as including a house, building, tents and vessel. So, if we combine the definitions of both the words 'public' and 'place', the term 'Public place' may include any temple, church or mosque. So, anybody who dies in a mosque also will come under the provisions of this Bill and his dead body must be handed over to the hospital authority for being dissected. It may be that a person who is conducting the puja in a temple, or a person conducting prayers in a mosque or a bishop in a church may die there, and he may not have any 'near relative' in the area. In such cases, their dead bodies must be handed over to medical institutions. Again, if anybody does not hand over such bodies, he will be liable for punishment under this Bill. We all know that most of the religious heads, like bishops in a church, the priests in a temple and the Alims conducting prayers in a mosque, have no relatives in the locality in which they carry on their work. It may be that their relatives are thousands of miles away. In such cases their dead bodies will be declared as 'unclaimed'. I submit, therefore, Sir, that the provisions of this measure will produce a very serious state of affairs and will affect the long-cherished religious susceptibilities of various sections of the population. We in the East attach very great importance to our dead; we honour our dead much more than the living, and that is why we attach very great importance to the performance of the obsequies of the dead. Therefore, Sir, I appeal to the Hon. Minister to circulate this Bill for eliciting public opinion.

"Again, Sir, clause 5 of the Bill provides for the determination of any doubts or disputes as to who a 'near relative' is. If there is any doubt in the minds of the hospital authorities as to the claim of a particular person that he is a 'near relative' of the deceased person, then the matter has to be referred to the Presidency Magistrate in the City of Madras and to a Magistrate of the First-class in other places, and the decision of the Magistrate 'shall be final'. Sir, I would like to ask how many days it would take for the Magistrate in the City to decide the question as to the claim of a 'near relative'. In the mufassal, we know that First-class Magistrates are not stationary, that they are going from place to place, and are very often on tour. That being the case, how can this question be decided sufficiently early, so that the dead body may be buried before it becomes decomposed?

3-45
p.m.

"Of course, I am quite conscious that sub-clause (2) of clause 5 provides for the preservation of dead bodies from decay. But, I would like to ask the Hon. Minister whether there are adequate facilities in the various centres for the preservation of dead bodies from decay. I daresay not. Therefore, Sir, it is very necessary that this measure should not be passed into law. If you, Sir, permit me, I shall move that this Bill be circulated for eliciting public opinion."

[16th April 1951]

MR. CHAIRMAN:—"I am afraid the hon. Member cannot do so, because such a motion can only be made in the case of those Bills which originate in this House. But, since this Bill comes from the Assembly, it is not open to the hon. Member to make such a motion."

SRI R. SURYANARAYANA RAO:—"But the hon. Member can move for referring it to a Select Committee."

MR. CHAIRMAN:—"It is there."

JANAB K. T. M. AHAMED IBRAHIM:—"Can I move that the Bill be referred to a Select Committee, Sir? If so, I move, with your permission, that the Bill be referred to a Select Committee, consisting of—shall I name the members now, or later, Sir?"

MR. CHAIRMAN:—"Let us see what will become of this motion and then, if it is accepted, the hon. Member can give the names."

* SRI R. SURYANARAYANA RAO:—"Sir, I quite realise the difficulties of medical institutions in getting an adequate number of dead bodies for anatomical purposes. The wording of the definition in regard to 'unclaimed bodies' should be made more clear. In fact, a body becomes unclaimed only if it is not asked for. As the hon. Member, Mr. Ibrahim, said, there are a certain number of religious institutions that take care of unclaimed dead bodies and, as he said, some of the persons who are dead may be persons who were respected and honoured during their lifetime, but they may have no relations at all. For example, our sanyasins are supposed to have no relations at all, because they do not claim relationship with any one as soon as they become sanyasins; and as soon as they become sanyasins they renounce all their relations. Technically speaking, the sanyasin has no near relative because he renounces all his earthly ties as soon as he becomes a sanyasin and so if he dies, technically speaking, his body becomes unclaimed. I do not know how the law recognises the sanyasin as having near relatives after he has declared that he had cut off all earthly ties. Therefore, Sir, the definition of 'unclaimed body' needs some amendment."

MR. CHAIRMAN:—"It is quite possible that a sanyasin may not recognize any near relatives, but relatives may recognize their relationship to the sanyasin."

* SRI R. SURYANARAYANA RAO:—"They may claim relationship if they can earn something after his death."

MR. CHAIRMAN:—"I think this law deals with earthly connection."

* SRI R. SURYANARAYANA RAO:—"As I said, Sir, we perfectly realize the difficulties of Medical Colleges to secure the number of dead bodies that they require for anatomical purposes. But I think a little amendment of the definition would serve the

[Sri R. Suryanarayana Rao] [16th April 1951]

purpose of the Government, and respect as well the feelings of religious communities. Our object is not to obstruct the passage of the Bill, but only to assist in its passage by removing all the objectionable features in it. I am sure Mr. Ibrahim also does not want to obstruct the passage of the Bill."

JANAB K. T. M. AHAMED IBRAHIM :—" I am only anxious that the present practice must be embodied in it."

* SRI R. SURYANARAYANA RAO :—" Whatever may be the present practice, we Hindus are least concerned about dead bodies and I know in the mufassal hospitals there is nobody to take care of the dead bodies, but only religious institutions of Muslims and Christians take charge of dead bodies and do all the religious rites. In some places, we have to bring together a few Hindus and get the necessary materials prepared in order that such unclaimed dead bodies may be taken care of. Therefore, Sir, it will not in any way defeat the object of the Bill if a Select Committee is appointed to go through the definitions."

MR. CHAIRMAN :—" If that is the only point, it may be discussed with the Hon. Minister whether he can come to some agreement with regard to the matter."

* SRI R. SURYANARAYANA RAO :—" I think the main object of Mr. Ibrahim is that any dead body which is not claimed by any near relative should not be declared an unclaimed body, because there may be other persons to claim it. If the Hon. Minister agrees to that, the difficulty can be got over. After all, we are sitting tomorrow also and this can be brought up tomorrow when the Hon. Law Minister also can come and assist us to get over this little difficulty. I therefore endorse the suggestion of my hon. Friend, Mr. Ibrahim, for the appointment of a Select Committee to go into the question."

MR. CHAIRMAN :—" Motion moved—

' That the Bill be referred to a Select Committee.' "

* THE HON. DR. T. S. S. RAJAN :—" Sir, I was rather amused to listen to the criticisms of hon. Members. There seems to be consideration neither for the dead nor for the living in what the hon. Members have stated. What I have stated is only a commonsense thing, namely, that only in cases where a body is not claimed by anybody, instead of allowing it to be taken by any person who wants to earn some ten or twenty rupees out of it, it may be taken over by the State. That is why it is stated that a relation could claim. If by claiming dead bodies people can make a very good profession, in this land where people die every day, it would be a very good job. But here we want to make an enactment of a most inoffensive kind and we say that we will use such real bodies for the knowledge of mankind. That is what we want to do with the dead bodies. We want to enlighten those who have no idea of a human body and who are trying to treat people by giving them the basic idea about the constitution of the human

16th April 1951] [Dr. T. S. S. Rajan]

body; and so we take charge of unclaimed bodies. There is nothing more than that in this Bill. The Government do not do it secretly, but they say that the dead bodies are taken for a specific purpose. No better thing can be done with a dead body than imparting knowledge of the human system. No question of religion or faith is involved in the matter. I have got a statement from various hospital authorities and from various denominations that, during the last year or two, as many as 51 dead bodies were left unclaimed and nobody wanted them. I think last year about 14 dead bodies were claimed by certain communities which had funds and several other dead bodies were not claimed. So, it is not as if dead bodies are neglected by our taking charge of them. They will be attended to by putting them to a commonsense use. Otherwise, for all practical purposes, there will be no use of unclaimed dead bodies. In fact, they will be a nuisance if they are left uncared for. They will get decomposed and become a public nuisance and then the State will have to go and interfere. Instead of that, here is a Bill which says that such unclaimed bodies will be taken over in such places where they can be used for a certain purpose, that is, for giving instruction to living people, so that they may become wiser and gain knowledge of the human body. Nowadays medical colleges are well supplied with dead bodies and they do not clamour for more. Since the number of institutions is growing day by day, we want to make it possible for them to have better knowledge made available for the students. For instance, even in regard to Ayurveda and probably Homœopathy also, many institutions may come up in course of time, though they are now in a minority, and we will have to give them some facilities like this. That is why we want to take charge of dead bodies. There is nothing in this Bill to confuse anybody. I know sentiment will always be there and sentiment has existed from time immemorial; but in spite of sentiment and all that, we have to learn facts and there is nothing wrong in taking charge of an unclaimed dead body. That is all that this Bill seeks to do."

MR. CHAIRMAN :—" What about ascetics and sanyasins? "

THE HON. DR. T. S. S. RAJAN :—" They are as much human beings as anybody else and when they are dead they are no longer ascetics or sanyasins and they are only dead bodies."

JANAB ABDUL LATIF FAROOKHI :—" Now that the Hon. Minister has spoken, if you permit me, Sir, I would like to say a few words. The proposition of the hon. Member, Mr. Ibrahim is a very simple one. As Mr. Suryanarayana Rao has pointed out, there is no intention to obstruct the passage of the Bill. The request of the hon. Member is a small one which the Hon. Minister can easily accommodate. Then the rest of the question can be settled. In fact, we can sit tomorrow for a few minutes, or say for half-an-hour and modify the definition. All that the hon. member wants is to define who a relative is. It is possible that a person who goes to a certain place happens to die by mere chance or accident. Though he might have a number of relatives

[Janab Abdul Latif Farookhi] [16th April 1951]

in some other places, he might not have any relative at the place where he died. Now, by virtue of this Bill, that body will be taken over by the Government, without the performance of the last rites which the relatives of that person would like to do. Therefore, it is not such a difficult thing for the Hon. Minister to accede to this small request to have the matter considered by a Select Committee. Of course, there need be no apprehension on the part of the Hon. Minister or the Government with regard to the passage of the Bill. All that is required is a slight modification of the definition of 'relative'. I would request the Hon. Minister to give due consideration to the sentiments of people. Probably the Hon. Minister feels sentiments have no place in society or in living people. But, sentiments are there and people are sometimes guided by sentiments. In fact, there have been revolutions on account of sentiments. Therefore, I would request the Hon. Minister to pay due regard to the sentiments of people by modifying certain definitions in the Bill."

SRI B. BHIMA RAO :—" Sir, may I say a few words in this connection? "

* DR. P. V. CHERIAN :—" Sir, I rise to give my entire support to the Bill brought forward by the Hon. Dr. Rajan, the Health Minister. I have been connected with medical education for very many years and I know and understand the importance of the teaching of anatomy. In medical schools for several years there have been difficulties in getting dead bodies. The Bill says the dead bodies are required for anatomical dissection and examination. It plays a much more important part than that. The first contact which a medical student gets with the body is in the anatomy theatre. There he learns to respect the human system and human anatomy. There he learns dissection and the different structures in the human body. He learns much more than that. Dissection gives him deftness of fingers. There he also learns a certain amount of surgery and it gives him cleverness in the use of fingers and brains. When these things are taken into consideration, I think it is highly important and necessary that we should have as many dead bodies as possible. The Hon. Minister has said that we have enough dead bodies for the existing number of medical institutions; but a few more are going to be opened and to supply them with dead bodies for purposes of anatomic dissection, we need many more dead bodies than we are now getting. In that connection, one question arises and that is, what is the kind of dead bodies that we want. It is only the unclaimed dead bodies; and the question arises: Why are they unclaimed? Because society did not care for them when they were alive and they were practically parasites on society while they were living; and if society can expect anything from them, it is that at least after they are dead, their bodies can be used for the advancement of science. Anatomic dissection started in ancient days in other countries and it was carried on on the bodies of animals and not of human beings; but that was given up when it was found that there were certain differences between human anatomy and animal anatomy and that

[16th April 1951] [Dr. P. V. Cherian]

is why anatomy has become a very important subject. I observe that that there is one little improvement which can be effected. The Bill says that dead bodies are required for anatomic dissection and examination; when the student comes to the final year, it is on dead bodies that he has got to be taught how operations have to be carried on. If you get a doctor who has passed only in theory of how to operate and what are the indications for which an operation should be undertaken, it will be a great calamity for society as people would really be in the hands of men who are not really qualified to operate and that is why students are taught the way how to operate by senior people and they are taught to operate on dead bodies; therefore, dead bodies are required for this purpose also. Another aspect of the question is the advancement of science. In western countries, where much advance has been made in science, it was by means of examining people who are dead. For one of the biggest medical institutions of Vienna with a bed strength of 3,000, Empress Maria Theresa got a famous surgeon to work in the hospital and he came on the express condition that he should be allowed to do complete post-mortem examination of everybody that died in the hospital whether the patient had relations or not, so much so when the Professor of Pathology of that institution died, a complete post-mortem examination of his body was done. That is how in western countries, science has advanced and it will indeed be a sad day if we object to the provisions of the Bill.

" In the schedule, Sir, only four Government hospitals have been mentioned but there is a very big institution in Vellore which is doing very excellent work where also it is absolutely important that they should have dead bodies for dissection purposes and for surgery and I am hopeful that the Government will see that the Vellore Medical College is added to the list."

THE HON. SRI K. MADHAVA MENON :—" Mr. Chairman, Sir, Janab Ibrahim pointed out that the term ' public place ' has not been defined anywhere. We have said ' hospital, jails and other public places '. ' Public place ' has been defined in the City Police Act, the Town Nuisance Act and also in the Criminal Procedure Code. It is said: It includes a road, street or way whether a thoroughfare or not to which the public are granted access and can pass through. Thus there is no meaning in his saying that it has not been defined."

MR. CHAIRMAN :—" Has it not been defined in the General Clauses Act."

JANAB K. T. M. AHAMED IBRAHIM :—" No, it has not been defined there."

MR. CHAIRMAN :—" But there should not be any difficulty about it; I do not find any difficulty there."

* SRI B. BHIMA RAO :—" Mr. Chairman, Sir, I would only suggest to the Hon. Minister to be agreeable to include the expression, ' friend '."

[16th April 1951]

MR. CHAIRMAN :—" But the trouble is, anybody can say that he is a friend and how is it to be proved. If the hon. Member gives a suggestion it must be acceptable without its being capable of any kind of misuse; if it will not lend itself to any misuse, they are prepared to agree. But what is the meaning of suggesting the word 'friend'?"

SRI B. BHIMA RAO :—" A man who occasionally comes to Madras may be knocked down in front of the General Hospital; he will not have any relatives here and what is to happen to the dead body?"

MR. CHAIRMAN :—" We are all agreed about facts and the hon. Member need not argue upon it, but the point is how would he like to get it amended."

* SRI B. BHIMA RAO :—" We can have it as 'intimate friend'."

MR. CHAIRMAN :—" As the Hon. Minister pointed out, anybody can say that he is an intimate friend and that term would not be suitable; he suggested that the provision may start a trade."

JANAB K. T. M. AHAMED IBRAHIM :—" But, Sir, has not there been any profession or trade in this matter so far?"

MR. CHAIRMAN :—" But evidently, they want to prevent it."

* SRI B. BHIMA RAO :—" We know how the dead are honoured by the Muslims; in their funeral processions, any Muslim who sees a dead body passing by, though he can have no sort of connexion with it, has to accompany the procession for a hundred yards; that is the sort of respect that they show to their dead and I submit that the Hon. Minister must accede to their wishes; and the words 'intimate friend' may also be included. Let us take such a case as this. A man comes to Madras and he is accidentally knocked down and killed; his relatives will be far away and it will take them a long time to come and claim the body and they cannot have the benefit of motor cars and aeroplanes to take away the dead body. We must respect the susceptibilities of Muslims and Christians and for that purpose, I submit that this addition might be made."

SRI M. NARAYANA MENON :—" Mr. Chairman, Sir, even the list given in the Bill is wide enough and if we add friends also, the provisions of the Bill will become unworkable. The other question is how is friendship to be proved."

MR. CHAIRMAN :—" Hon. Members seem to feel that in case of accidental deaths without any relatives being nearby, there would be a possibility of the dead bodies being disposed of without news thereof reaching their relatives."

THE HON. SRI K. MADHAVA MENON :—" There is no difficulty, Sir. Under clause 4 (1) and (2), the time-limit has to

[16th April 1951] [Sri K. Madhava Menon]

be prescribed by the Government and we shall certainly prescribe the time-limit and find out how to inform relatives available and publish the death in such manner as would be suitable. It will certainly be provided for in the rules, Sir."

MR. CHAIRMAN :—" The question is—

'That the Madras Anatomy Bill, 1951 (L.A. Bill No. 12 of 1951), be referred to a Select Committee.'

The motion was declared lost.

Janab K. T. M. Ahamed Ibrahim demanded a poll and the House divided thus :

Ayes.

- | | |
|-------------------------------------|----------------------------------|
| 1 Sri B. Bhima Rao. | 4 Sri R. Suryanarayana Rao. |
| 2 Janab Abdul Latif Farookhi. | 5 Janab K. T. M. Ahamed Ibrahim. |
| 3 Sri M.D.T. Kumaraswami Mudaliyar. | |

Noes.

- | | |
|----------------------------------|---------------------------|
| 1 The Hon. Dr. T. S. S. Rajan. | 7 Dr. P. V. Cherian. |
| 2 The Hon. Sri K. Madhava Menon. | 8 Sri A. Govindacharvulu. |
| 3 Sri K. Venkataswami Nayudu. | 9 Sri S. Jayaram Reddiar. |
| 4 Sri M. Narayana Menon. | 10 Sri H. M. Jagannatham. |
| 5 Sri L. Subbarama Reddi. | 11 Sri N. Ranga Reddi. |
| 6 Sri M. Narayana Rao. | 12 Dr. P. S. Srinivasan. |

Neutral.

- 1 Sri A. Gopalakrishnayya.

Five hon. Members voted for the motion and 12 against.

The motion was lost.

4-15
p.m.

MR. CHAIRMAN :—" The question is—

'That the Madras Anatomy Bill, 1951 (L.A. Bill No. 12 of 1951), as passed by the Assembly be taken into consideration at once.'

The motion was carried and the Bill was taken into consideration.

Clauses 2 and 3 were put and carried and allowed to stand part of the Bill.

Clause 4.

MR. CHAIRMAN :—" The motion is—

'That clause 4 do stand part of the Bill'

* JANAB K. T. M. AHAMED IBRAHIM :—" Mr. Chairman, Sir, clause 4 of the Bill is not so innocuous as the Hon. Minister for Health thinks. We have the least objection to making provision for unclaimed dead bodies to be used for anatomical examination and dissection. In fact we are as anxious as he is to make available to medical institutions a sufficient number of dead bodies, as we are equally anxious to encourage medical education.

[Janab K. T. M. Ahamed Ibrahim] [16th April 1951]

We are only anxious, Sir, that provision should be made to enable friends or disciples to claim the dead bodies of their friends or gurus; such dead bodies should not be declared as unclaimed dead bodies. The provision as it stands in the Bill does not enable a friend or a disciple to claim the dead body of his friend or guru. The Hon. Minister for Health himself has admitted that fifty-one dead bodies were available last year for anatomical examination and dissection. Now, if that number is not sufficient, we can devise other methods for increasing the number of unclaimed dead bodies available for the purpose. But I only desire that the feelings of friends and disciples should not be wounded; their rights should not be forfeited, and their feelings should be sufficiently respected. Much more than relatives, friends have in very many cases greater respect, greater affection and greater regard and love for their friends. Also, it cannot be denied that disciples have greater regard and respect for their guru than the relatives of the guru. According to this measure the dead bodies of gurus and friends cannot be claimed by disciples or friends, as the case may be, and so, such dead bodies will be consigned to the anatomical or dissection rooms of medical institutions. My esteemed friend, Dr. Cherian, said that there is a hospital in Vienna where patients are admitted only if they agree to post-mortem examination of their dead bodies if they die in the hospitals. Now, I ask hon. Members on the Treasury Benches, are they prepared to submit their bodies for anatomical and dissection purposes after their death? Or are they prepared to allow the dead bodies of their children or their relatives to be used for such purposes? So, I would appeal to the Hon. Minister to calmly consider this matter and provide the necessary amendment to clause 4. I am sure no friend would be prepared to allow his friend's body to be used for anatomical examination or dissection on the ground that it is unclaimed. Now, I shall give one illustration. Most of the Members of this House have come here from distant places to attend the meeting. Suppose, by some mischance—May God forbid such a thing—one Member happens to die in the hospital here. I am sure none of his relatives would be in Madras. Now, should his dead body, on that account, be allowed to be taken over by the medical institutions for anatomical examination and dissection in spite of the fact that his colleagues here are quite prepared to give his dead body a decent burial or cremation?"

MR. CHAIRMAN:—"I say, God forbid."

JANAB K. T. M. AHAMED IBRAHIM:—"You say, 'God forbid'; but our Hon. Members on the Treasury Bench say, God cannot forbid that. Sir, this is a matter which has to be seriously thought of. Sir, there are organizations and associations whose sole object is the taking over of unclaimed dead bodies belonging to their religious denomination for performing the necessary obsequies. Sir, this is a matter which touches the religious susceptibilities of communities. The Hon'ble Minister for Health

[16th April 1951] [Janab K. T. M. Ahamed Ibrahim]

said that we should not encourage people treating this as a profession to earn a few rupees. I challenge him, Sir, to show any case where dead bodies are claimed for the purpose of earning some money. On the other hand, those who are engaged in this pious work, whether individuals or organizations, spend money from their own pockets for the purpose.

"Now, if this Bill is to be passed as it is, what is to happen to people like Bishops, Pandarasannadhis and Swamijis of Maths when they die. Their dead bodies cannot be claimed by their disciples under this Act and there will be no near relatives to claim them; therefore they would be handed over to the authorities of medical institutions. Now the word 'public place' is nowhere defined. It is not defined in the Central General Clauses Act nor is it defined in the local General Clauses Act. Act I of 1891 defines the words 'public' and 'place' separately. If we combine the definition of both these words, places of worship like the temple, church, synagogue or mosque, can be brought under the term 'public place'. The Hon'ble Law Minister referred to the definition contained in the City Police Act, the Criminal Procedure Code and similar Acts. But I submit that the present Act cannot attract the definition contained in those Acts.

"So I request the Hon. Minister to consider the matter seriously and amend the Bill in such a manner as to enable friends of deceased persons also to take charge of their dead bodies in the absence of relatives. I also request him to provide for enabling organizations of various religious denominations which do exist in the State for this purpose, to take charge of the unclaimed dead bodies of their respective religions and give them decent burial. This is not a matter which can be treated lightly as the Hon. Dr. Rajan thinks. If some of his near relatives die—which God forbid—will he hand over the dead bodies to medical institutions for anatomical examination and dissection? If his answer to this question is 'Yes', I shall raise no more objection to this measure. If he says 'No', I implore him to drop the measure."

SRI MOTHEY NARAYANA RAO:—"Mr. Chairman, Sir, I wish to say a few words on this clause. Sir, as regards sanyasins and ascetics and swamijis, I have to say this. According to religion, the dead body of a sanyasin or ascetic is not to be buried or burnt. A sanyasin will never die in hospital, for he never will go there. If he is a matadhipathi, he will die in his math; but in the case of a sanyasin or an ascetic, he will die in the street. According to religion the dead body of a sanyasin or ascetic should be made use of for some benefit to the country or to the world. It is not to be buried or burnt. Take the case of the dead bodies of Parsis. They are not burnt or buried. They are offered as a prey to birds to feed upon."

JANAB K. T. M. AHAMED IBRAHIM:—"What about other communities."

[16th April 1951]

SRI MOTHEY NARAYANA RAO :—" I do not know about other communities or religions. I know of only Hindu religion. As I said before, the dead body of a sanyasin is to be used for some benefit to the country or the world. For a sanyasin surrenders his life to the world, and so, even after his death, he is supposed to surrender his body to the benefit of the world. So he should have no sentiment as to whether his body should be burnt or buried. So, Sir, the question of how the dead body of a sanyasin should be disposed of does not arise here at all, i.e., whether it should be handed over to his relative."

MR. CHAIRMAN :—" Even in the case of the sanyasin, there may be his relatives, who may be willing to take charge of his body. Though the sanyasin may not recognize his brother, mother or some such relative, they may recognize him as their relative. So nothing prevents them from taking charge of his body."

SRI MOTHEY NARAYANA RAO :—" I only submit that the dead body of a sanyasin should not be buried or burnt."

" As regards a friend of the deceased person wishing to take charge of the dead body, there is no suitable provision in the clause. I only request to add the word 'friend' in this clause to provide for it. Suddenly a person comes over to Madras, falls ill and dies in the hospital. In such a case it is possible there may be no relative of his in Madras. But he may have possibly a friend. Now, within the time prescribed for a relative to come and take charge of his dead body, no relative of his can go over to Madras from the mufassal. In such a case, a relative of the deceased person may communicate to this friend by telephone or by telegram to take charge of the dead body. Now, does the present clause provide for such a contingency? I think not. So I request Government to add the words 'a friend authorised by his relatives' in the present clause to provide for such a contingency. I hope Government will accept my request."

THE HON. SRI K. MADHAVA MENON :—" Mr. Chairman, Sir, the word 'friend' is a very, very vague word. What Mr. Narayana Rao wants is already provided for in the clause. I do not think there is any difficulty in the case cited by him for the friend to take charge of the dead body."

MR. CHAIRMAN :—" I think there is provision to frame rules under this enactment?"

THE HON. SRI K. MADHAVA MENON :—" Yes, there is clause 9 which provides for the framing of rules under this enactment."

MR. CHAIRMAN :—" So, you can provide there for the dead bodies of sanyasins also!" (Laughter.)

MR. CHAIRMAN :—" The question is—

'That clause 4 do stand part of the Bill.' "

16th April 1951]

The motion was carried and clause 4 was allowed to stand part of the Bill.

Clauses 5, 6, 7, 8 and 9 were put and carried and allowed to stand part of the Bill. 4-30 p.m.

The schedule was put and carried and allowed to stand part of the Bill.

Clause 1 was put and carried and allowed to stand part of the Bill.

The Preamble was put and carried and was allowed to stand part of the Bill.

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

'That the Bill be read a third time and passed.' "

MR. CHAIRMAN :—" The question is—

'That the Madras Anatomy Bill, 1951 (L.A. Bill No. 12 of 1951), as passed by the Assembly, be read a third time and passed.' "

The motion was carried and the Bill was passed.

VI.—MOTION UNDER RULE 22 (3) OF THE COUNCIL RULES.

THE HON. SRI K. MADHAVA MENON :—" Sir, with your permission, I move—

'That under rule 22 (3), item II (8) on the Agenda, namely the Madras Estates (Abolition and Conversion into Ryotwari) Second Amendment Bill, 1950, be taken up before item II (7), namely, the Madras Village Panchayats (Amendment) Bill, 1951.'

" Item II (7) may be taken up to-morrow, because it is not ready to-day. Item II (8) may be taken up now."

MR. CHAIRMAN :—" The question is—

'That under rule 22 (3), item II (8) on the Agenda, namely, the Madras Estates (Abolition and Conversion into Ryotwari) Second Amendment Bill, 1950, be taken up before item II (7), namely, the Madras Village Panchayats (Amendment) Bill, 1951.' "

The motion was carried.

V.—GOVERNMENT BILLS—cont.

(7) THE MADRAS ESTATES (ABOLITION AND CONVERSION INTO RYOTWARI) SECOND AMENDMENT BILL, 1950 (L.A. BILL NO. 32 OF 1950) (AS PASSED BY THE ASSEMBLY).

* THE HON. SRI H. SITARAMA REDDI :—" Sir, I move—

'That the Madras Estates (Abolition and Conversion into Ryotwari) Second Amendment Bill', 1950 (L.A. Bill No. 32 of 1950), as passed by the Assembly, be taken into consideration.'

[Sri H. Sitarama Reddi] [16th April 1951]

"The main object of this amending Bill is to remove certain difficulties which have come to the notice of the Government in working the Act since it came into force on 19th April 1949. Some of the difficulties were brought to the notice of the Government by the zamindars themselves, and some others by the departments that administered the Act. They were duly examined by the Legal Department of the Government, and it was felt necessary that this amending Bill should be brought forward. An important amendment embodied in the Bill seeks to protect landholders against the purchase of their estates by the creditors who had obtained court decrees. Section 59 (2) of the Act as it stands at present protects the landholders only on or after the date on which their estates are taken over. It does not protect them from a court executing a decree before that date. The result is that when creditors press execution against the landholders in respect of the estates not yet taken over, and third parties are reluctant to bid at the sales, the estates are knocked down for very low sums. Besides this, action in execution is taken also against their immovable properties. New section 58-A as proposed to be inserted by clauses 6 and 7 of the Bill seek to protect landholders against such execution and to set aside sales in execution which have already taken place after 19th April 1949.

"Another important provision in the Bill is that contained in clause 8 of the Bill. This purports firstly to make decisions of the Tribunals operate as *res judicata* in respect of proceedings before the civil courts and *vice versa* and secondly to exclude the time taken by tribunals in computing the period of limitation for further proceedings before the civil courts. The object in regard to the first is to avoid multiplicity of proceedings and that of the second is to enable the creditor who has proceeded against the compensation amount before a tribunal and who is not fully satisfied thereby to save his cause of action subsequently before a civil court.

"The amendments to sections 17 and 18 embodied in clauses 3 and 4 of the Bill are proposed for removing a difficulty raised by the President, Hindu Religious Endowments Board, who held that whole inam villages held by temples were service inams, that therefore the lands were not ryoti lands, and that the Rent Reduction Act did not apply to such lands. Clauses 3 and 4 are intended to make it clear that a ryotwari patta will be granted only to an entire village granted on such tenure and not to cases of isolated lands held on service tenure.

"The provisions embodied in clause 9 of the Bill seek to correct a mistake. Certain inam villages were wrongly notified under section 1 (4) of the Act on the assumption that they were under tenure estates. In view of Section 22 of the Madras General Clauses Act, the issue of errata to the notifications already

16th April 1951] [Sri H. Sitarama Reddi]

issued will not achieve the object. The Act has to be amended in order to specifically exclude such whole inam villages from its operation. Hence the necessity for this clause.

"Sir, this Bill was referred to a Select Committee of the Assembly. The Select Committee went carefully into the various provisions of the Bill, and after a thorough examination, made a few amendments. Those amendments have been accepted. Provision has been made to the effect that in cases of continued service to a religious institution, the benefit of section 38 should be conferred on persons rendering such service if it consists of a whole inam village but that the difference should be made good by the religious institution concerned, option being however given to it to say whether it wanted the continuance of the service or not. This was one of the amendments made in the Select Committee.

"The proposed protection to the landholder from execution proceedings and court sales has been extended to the date on which the compensation is deposited. Originally it was confined to the date of the notification. Now it has been extended to the date on which the compensation is deposited under section 54-A. It has also been provided that the rate of interest during the period of moratorium be reduced to 6 per cent simple interest in cases in which it exceeded 6 per cent, that there should be no personal arrest, and that the landholder should not create any fresh or new charges on his immovable property during the period of the moratorium. The period of moratorium has been excluded from the period of limitation for suits. These are the changes made by the Select Committee of the Assembly, and the Bill was passed by the Assembly. Sir, I move that the Bill be taken into consideration."

MR. CHAIRMAN :—"Motion moved—

"That the Madras Estates (Abolition and Conversion into Ryotwari) Second Amendment Bill, 1950 (L.A. Bill No. 32 of 1950), as passed by the Assembly be taken into consideration."

* SRI R. SURYANARAYANA RAO :—"Mr. Chairman, Sir, as you are aware, this Zamindari Abolition Bill, before it was enacted, was referred to a Joint Select Committee of both the Houses. Because of its importance, I feel that whenever it is found necessary to amend the Act, the amending Bill should go before a Joint Select Committee. The Hon. the Minister tried to make out that the amending Bill was brought forward to remove certain difficulties. Amending Bills, Sir, are brought forward only to remove certain difficulties experienced in the working of the Act. We are not in possession of as much information as would be placed before a Joint Select Committee. We are furnished with the report of the Select Committee, after your direction. We do not know why these amendments were found necessary."

[16th April 1951]

MR. CHAIRMAN :—" Was there a Joint Select Committee on this Bill? "

* SRI R. SURYANARAYANA RAO :—" No, Sir. It was a Select Committee of the Assembly. When amendments of this nature to an Act, which, before being enacted was referred to a Joint Select Committee are proposed to be made, the amending Bill should be referred to a Joint Select Committee. A convention of that kind should be devised. This House is also representing certain interests affected by the amendments. The Hon. Minister has not explained to us why it is considered necessary to exclude inams which are entire villages. What made the Government to include them in 1948 and exclude them now? How is their inclusion contrary to the spirit and principles of the Bill? Why do they want to exclude entire inam villages? The Hon. Minister should have taken pains to tell this House why these amendments are necessary. Sections 38-A and 58-A are being inserted. They are very important sections. What are the difficulties encountered by the Government to think of these changes? Why did they commit the mistake then, if it were a mistake? Do they own that they committed a mistake in including the whole inam villages in this Act? Do they propose to include what are known as the 1936 inams also? What is the position of the inams of different types? I am seeking information, because this is a very complicated matter, and the original Act itself is very complicated. It is becoming more complicated by the amendments made to it. What is the position of the inams which are not 1936 inams? Have they been taken over? If not, when are they proposed to be taken over?

" In respect of rents collected, is it a fact, Sir, that the inamdars, in whose estates the Government are collecting rents, are not being paid their rents regularly. When rents are collected, they should be paid to the persons to whom they are due. Why should there be delay? How are the inamdars who are depending on the income from their estates to live? The same complaint comes from the zamindars also. A procedure has been laid down as regards compensation. As regards rents collected, we would like to know why these amendments are considered necessary. I read the Select Committee's report. Nothing is known from the report except that Mr. So and So moved an amendment and that was accepted, and another moved an amendment which was not accepted. It would have been helpful to hon. Members if they were provided with the original sections and also the new sections that are proposed to be inserted, in a tabular form. I am sure, Sir, you yourself will find it difficult in the absence of sufficient information to follow these amendments. Much more will be the difficulty of hon. Members of this House who are not all lawyers and who are not all well versed in the Estates Land Act. Therefore, Sir, I would like the Hon. the Minister for Revenue to take us into his confidence and tell us a

16th April 1951] [Sri R. Suryanarayana Rao]

little more why they were included first and why it is now proposed to exclude them. Was it a mistake that the entire village inams were included there? Is their inclusion harmful to the principles on which the Bill was originally based? It is true unfortunately that the Members of the Opposition did not take part in the proceedings connected with this Bill. It may be that these amendments are absolutely necessary in the interests of both the zamindars and the tenants under them. It is, of course, easy for all of us to say 'aye' and pass the Bill, without understanding what it is that we are doing. I am sure many hon. Colleagues of mine are in the same plight as I am. Therefore, I would beg of the Hon. Minister to enlighten us on the point why these clauses 3 and 4 are necessary. With regard to clause 5, it is a curious provision, Sir. The proviso reads—

" Provided that if the individual pays to the institution the amount of compensation paid to him under this Act, the institution shall, in lieu of the sum aforesaid, pay to the individual every year a sum equal to the aggregate of the amounts which would be payable by the Government under Section 38, if the inam estate or part thereof was held immediately before the notified date by a religious institution."

What a complicated sentence it is! Suppose compensation has not been paid to the holder of the estate. In many cases compensation has not yet been settled. All that those people are entitled to is the rent collected by the Government on behalf of the estate-holder. Now, simply because a man held the inam before the notified date, he is sought to be compelled to render service even after resumption of the estate."

MR. CHAIRMAN :—" Before the hon. Member proceeds further, I think the Hon. Minister can elucidate the point to us. He can explain what are the inams that are sought to be excluded."

* THE HON. SRI H. SITARAMA REDDI :—" Sir, the 1936 inams are excluded from the Estates Abolition Act. So, the hon. Gentleman wanted to know what the position of the 1936 inams is. He wanted to know why this amendment is sought to be made. I agree that the Act itself is a rather complicated and difficult piece of legislation which it is rather difficult for non-lawyer Members to understand. In an enactment of this sort where amendments are sought to be made, naturally there are bound to be certain involved sentences in drafting. It cannot be helped. The Legal Department have drafted it and we know that the Legal Department, in handling this particular matter, have done their best to make it as clear as possible.

" Now, section 17 of the Estates Abolition Act refers to the grant of ryotwari patta for service tenure lands. The President, Hindu Religious Endowments Board, tried to get for the entire villages the benefit of this section which gives the right of patta for lands. His point was that the wording of section 17 and section 38 lent support to the argument that the entire villages could be granted patta and not the lands alone. I should like

[Sri H. Sitarama Reddi] [16th April 1951]

to impress on the hon. Members of this House the difference between lands and entire villages. It is possible that there are four blocks of lands—A, B, C and D—which comprise a village. It is argued that because of the wording of section 17, these separate blocks of land put together form a village and are entitled to the benefit of section 17. But if it is a village, it does not comprise only lands which are service lands; it is possible that there are lands which are non-service lands. The whole object of the Estates Abolition Act was to see that the tenant was benefited. Now, in a whole inam village, it is possible that there are tenants and the grant of patta as per the interpretation of the President, Hindu Religious Endowments Board, to the owner of the village, whether it is an institution or an individual, would deprive the tenants in the village of the right of getting patta as was intended by the Act. After this was pointed out to us, in view of the present wording of section 17 and the intention being to give patta to the tenant and not to these institutions for whole inam villages, the Government felt that it was necessary to clarify the position. Therefore, we are trying in this Bill to clarify the position that the grant of patta will be only to lands and not to the entire village. The amendment of section 38 is consequential to the amendment of section 17. That is how these amendments have been brought forward. I hope, Sir, I have made myself sufficiently clear.

“ During the Select Committee stage, one of the hon. Members raised this question: ‘ Here is a service tenure village. Under this amendment, you are taking away the right of getting patta for the entire village.’ It was, therefore, suggested that there must be a provision analogous to section 38 which enabled a religious institution to demand and get from the Government the income lost due to the enactment of this legislation. Similarly, it was suggested that a person who was rendering service to a religious institution and the continuance of whose service was necessary for the performance of religious service of a temple, should have the right of having his lost income made good by the religious institution. The hon. Member suggested that because the compensation that would be paid for the village must be given to the institution, the institution must see that the person who performed the services was in no way a loser. I think this amendment was made in the Select Committee and was accepted by the Government. That is the section about which the hon. Gentleman was trying to argue at some length.

“ Now, Sir, another question which was raised was one of principle. The hon. Gentleman said that the Estates Abolition Bill was considered by a Joint Select Committee of both the Houses, that it was passed by both the Houses, and that therefore, any amendments brought forward in the future should be considered by a Joint Select Committee. I do not think that such a procedure is necessary in the case of small amendments. Sometimes it may happen that some clarification is necessary in

16th April 1951] [Sri H. Sitarama Reddi]

order to get over certain difficulties which are pointed out to us so that they may be to the advantage of the public and in such a case it may be necessary to push through a legislation with some speed and if I accept the principle that every time an amendment is brought forward, it should be considered by a Joint Select Committee of both the Houses of the Legislature, it may result in delay in the passing of legislation which would certainly mean deprival to the public of a beneficial measure. In all these matters, we must take into consideration the nature of the amendment and we cannot as a general rule insist upon a Joint Select Committee considering it simply because the Bill had once been considered by a Joint Select Committee. If that principle is accepted, it may land us in certain difficulties. I can assure the hon. Member this much that if any amendments have to be made, the Government would be only too glad to have the assistance and advice of the hon. Members of this House. With this assurance, I hope the hon. Member will not press the matter. But so far as this particular Bill is concerned, it was considered by the Government that certain defects which came to their notice during one year and odd of the administration of the Act could be rectified by these amendments. That is why the Government brought forward this Bill before the other House and it was referred to a Select Committee. We had the benefit of the suggestions of the Members of the Select Committee and Government did accept certain amendments.

“ Sir, the hon. Member also raised the question about rents being collected . . . ”

MR. CHAIRMAN :—“ He raised the question of exclusion of certain inam villages from the purview of the Act. What has the Hon. Minister got to say on that point? ”

* THE HON. SRI H. SITARAMA REDDI :—“ I thought, Sir, I had explained the need for amending section 38.”

MR. CHAIRMAN :—“ I refer to clause 9 of the Bill.”

* THE HON. SRI H. SITARAMA REDDI :—“ Sir, certain 5 p.m.
inams were wrongly notified as under-tenure estates. Subsequently, it was pointed out that they were not under-tenure estates and that they were inams. The Government looked into the matter and sought to rectify this defect by notification. However, it was pointed out by the legal advisers of the Government that by a notification the wrongly-notified inams cannot be taken away from the effects of the notification. We were therefore advised that the only way by which we can take away the inams which were wrongly notified as under-tenure estates from the effects of the Act was by an amending legislation. We were further advised that even in respect of any other mistake which we might have committed in a similar manner, we have to bring in an amending legislation to correct the mistake. So, even in

[Sri H. Sitarama Reddi] [16th April 1951]

future if by any mistake a village is wrongly notified as an under-tenure estate, the only way in which we can correct the mistake is by bringing an amending legislation like this. That is why the Section referred to by you, Sir, has been included in the Bill. It might be asked by some hon. Member whether the Government were in a haste when they notified these estates. I may tell the hon. Members that the local officers originally reported to us that these were not inams. On further examination, we found that they were inams. That error which has been committed in the first instance is sought to be rectified in the present measure. That is all, Sir."

MR. CHAIRMAN :—" I suppose the hon. Member Sri Suryanarayana Rao understands the point now."

SRI R. SURYANARAYANA RAO :—" I understand the last point, Sir. I learn now that the Government included these villages by mistake. Now they are seeking to rectify the mistake committed by them in the first instance."

MR. CHAIRMAN :—" I think the mistake was only in the notification of certain villages which they are now seeking to rectify under the present Bill."

* THE HON. SRI H. SITARAMA REDDI :—" Sir, I may add that in the first instance certain villages were notified as under-tenure estates which were in fact not under-tenure estates. On a closer examination of the documents relating to these villages, we found that they were not at all under-tenure estates and the first notification notifying these as under-tenure estates was wrong. So, it is a question of a defect in the notification and not a defect in the legislation. We seek to rectify that defect in the notification now."

* SRI B. BHIMA RAO :—" May I know from the Hon. Minister whether this is done under proper authority? "

* THE HON. SRI H. SITARAMA REDDI :—" I think I have made the point clear. It is not a question of appeal or anything like that. On a closer examination by our own officers, it was found that some of the villages were not under-tenure estates but were inams and these were wrongly notified in the first instance as under-tenure estates. This came up *suo moto* before the Board of Revenue. We sought to correct this mistake by another notification. But, in view of certain provisions of the General Clauses Act, we were advised that we cannot do it by a notification and that we have to bring in an amending legislation before the Legislature and rectify the mistake. I hope I have made the position clear."

* SRI B. BHIMA RAO :—" Instead of taking into consideration some of the villages in certain districts, may I know whether it will not be better if the Government examine the cases of all

16th April 1951] [Sri B. Bhima Rao]

the villages in all the districts and bring forward a comprehensive Bill so that all the villages which were wrongly included in the notification may be excluded from the purview of the Act? "

MR. CHAIRMAN :—" It may perhaps take some time for the Government to do that."

SRI B. BHIMA RAO :—" Mr. Chairman, are we meeting on Wednesday also? "

MR. CHAIRMAN :—" We can see that to-morrow. I now adjourn the House till 11 a.m. to-morrow."

The House then adjourned to meet again at 11 a.m. on Tuesday, the 17th April 1951.

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

Bills passed by the Assembly and received therefrom in the Council :—

* 1. *The Madras City Police and Places of Public Resort (Amendment) Bill, 1951 (L.A. Bill No. 6 of 1951).*

* 2. *The Madras Civil and Village Courts (Amendment) Bill, 1951 (L.A. Bill No. 7 of 1951).*

* 3. *The Madras Hackney Carriage (Amendment) Bill, 1951 (L.A. Bill No. 8 of 1951).*

* 4. *The Madras Wild Elephants Preservation (Amendment) Bill, 1951 (L.A. Bill No. 10 of 1951).*

* 5. *The Madras Borstal Schools (Amendment) Bill, 1951 (L.A. Bill No. 11 of 1951).*

* 6. *The Madras Anatomy Bill, 1951 (L.A. Bill No. 12 of 1951).*

* 7. *The Madras Village Panchayats (Amendment) Bill, 1951 (L.A. Bill No. 13 of 1951).*

* 8. *The Madras Estates (Abolition and Conversion into Ryotwari) Second Amendment Bill, 1950 (L.A. Bill No. 32 of 1950).*

9. *Notification issued with G.O. Ms. No. 814, Public (Services), dated 4th April 1951, amending the Madras Public Service Commission Regulations, 1950, in regard to the Madras Medical Subordinate Service.*

[16th April 1951]

APPENDIX 1.

[Vide answer to starred question No. 201 asked by Sri R. Suryanarayana Rao at the meeting of the Legislative Council held on 16th April 1951, page 879 supra.]

Q.—1. What is the net expenditure incurred on items in clause (a)?

A.—Item 1 in the answer to clause (a)—Rs. 8,94,897 (estimated not cost).

1949-50—

	RS.
Item 2	58,831
Item 3	39,160
Items 4, 5, 6 and 6-a	3,65,075
Item 7	2,63,568
Items 8 and 9	33,17,514
Items 10 and 11	

Item 12.—A ready estimate of the net cost under the Tractor Reclamation Scheme is not possible as the net cost depends upon the actual hire charges collected during the year 1949-50 with reference to the tractors acquired during that year. During 1950-51, the hire charges have been increased and the Scheme is sought to be worked on a self-supporting basis.

1950-51.—The hon. Member has presumably desired information about the net cost for the year 1949-50 and not for 1950-51 in respect of which gross expenditure incurred for the first six months has alone been given in the answer to clause (a) of Question No. 201. The information for 1949-50 has been given above. The question of working out the net cost for a portion of the year 1950-51 is not therefore material and no ready particulars are also available.

Q.—2. How many of the items mentioned in reply to clause (b) form outright expenditure? If so, what would be the approximate amount?

A.—This question has apparently arisen as in the printed answer to Council Question No. 201, against clause (b), the word "Rs." has been wrongly* entered in the columns 2, 3 and 4. These columns represent figures in tons of additional production as indicated in words at the top of each column.

Q.—3. While the target of additional production aimed at in 1949-50 was 182,080 tons, but actually additional production was only 99,001 tons. Have the Government examined why there has been a fall?

* The word "Rs." is a printer's mistake.

[16th April 1951]

A.—As indicated in the answer to clause (b) of question No. 201, the additional production of 99,001 tons only represents the figures verified by the Collectors and does not represent the actual additional production that should have resulted during the year with reference to the extents covered and benefits actually distributed. Steps for the assessment of results by Karnams were taken only late during the year and there was also difficulty in getting particulars of sales of fertilizers, manures, etc., from the agricultural depots and in the absence of complete localization of all areas receiving benefits from the Grow More Food measures taken during the year, it has to be deemed that only a portion of the additional production could be actually verified by the local Revenue Officers by field inspection. There was therefore no special reason to presume that there was an actual shortfall in the realization of additional production with reference to the targets.

Q.—4. Is the large net expenditure incurred commensurate with the additional production obtained?

A.—The actual net expenditure as shown in the answer to supplementary question No. 1 above is not large and it is commensurate with the results achieved under each scheme or the utility of the scheme to increase food production.

Q.—5. With reference to answer to clause (d) is it a fact that as long as amounts are available in the food bonus fund, the Government of India will not give any grant as subsidy?

A.—Yes.

Q.—6. What are the intensive cultivation schemes in respect of which the State is eligible for grants?

A.—The Government of India have laid down certain rules governing assistance to intensive cultivation schemes and these rules are also being altered from time to time and the extent of assistance is not uniform for all the schemes. As a general rule, they insist that in respect of private schemes that benefit cultivators, 50 per cent of the cost should be recovered from the beneficiaries and the balance of 50 per cent is to be met by the State Government and the Centre in equal halves. In respect of the works schemes (particularly irrigation schemes), the additional revenue involved and the remunerative nature of the schemes, as defined by the Government of India will have to be considered before determining the extent of assistance due from them. Keeping these principles in view, schemes are being formulated by the State Government and sent up to the Government of India for approval and sanction of their share of grant due for each of them during each year. It is not possible to draw up an exhaustive list of all schemes that may become eligible for financial assistance from the Government of India. On a question of general principle, it may be stated that excepting with reference to tractor reclamation and distribution of ammonium sulphate which are not entitled to any grant or subsidy, the other seeds schemes, distribution of phosphatic fertilizers, works

[16th April 1951]

schemes, etc., are eligible for assistance. A list of schemes eligible for financial assistance from the Centre during the year 1949-50 is furnished in the annexure to the answer given to starred question No. 259, dated 19th February 1951, by the same hon. Member (answered on 31st March 1951).

Q.—7. Is the scheme of digging artesian wells in South Arcot not a part of intensive cultivation schemes?

A.—It is in the ordinary meaning of intensive cultivation schemes (which are only Grow More Food schemes), but it is a remunerative scheme with reference to the percentage of return fixed by the Government of India and hence not eligible for any grant from the Government of India.

Q.—8. With reference to answer to clause (e) will the Government be pleased to state what the cost of capital machinery so far purchased is and whether any grant has been obtained from the Government of India on the basis mentioned in the answer and if so what the amount received so far is?

A.—Leaving out the scheme for the purchase of tractors which is not eligible for any grant from the Government of India the only other scheme involving the purchase of capital machinery coming within the scope of this question is the scheme relating to the purchase of oil-engine pumpsets by the Agricultural Department to be owned by them and let out on hire to agriculturists. The subsidy cost of this scheme for 1949-50 which is being adjusted to the procurement bonus fund takes into account depreciation and interest on capital and works out to about Rs. 1.25 lakhs. Full details explaining how the above amount has been arrived at with reference to the capital cost involved are not readily available and will have to be called for from the J.D.A., Madras.

Q.—9. If the grant due towards subsidy cost has been adjusted against the procurement bonus fund, what such adjusted amount is till the end of 1949-50?

A.—Subsidy cost includes the grant due from the Government of India and also an equal share of the net expenditure of the State Government. In other words, it represents twice the amount of grant due from the Government of India, for purposes of adjustments against the bonus fund. The total subsidy cost for 1949-50 pending adjustment against the bonus fund is Rs. 199.54 or Rs. 200 lakhs, and this naturally includes an estimated grant of Rs. 100 lakhs due from the Government of India.

Q.—10. What are the schemes approved by the Government in 1950-51 and what the schemes are which come under the grant-in-aid schemes of the Government of India? What is the total cost of such schemes?

A.—A list of the schemes approved by the Government in 1950-51 with targets of acreages and additional production is furnished already in the annexure to the answer to starred question No. 201. All the schemes mentioned therein with the exception of schemes relating to irrigation tube wells, clearance

[16th April 1951]

and reclamation of waste lands by tractors and ammonium sulphate are eligible for financial assistance from the Government of India.

The total gross cost of all intensive cultivation schemes for 1950-51 is about Rs. 11.13 crores.

Q.—11. What would be the liability on the State finance in 1950-51 after adjusting the subsidy cost of all approved schemes?

A.—The total cost of Rs. 11.13 crores referred to in the answer to the supplementary question above includes large amounts recoverable from ryots in respect of schemes like distribution of ammonium sulphate and distribution of pumpsets under hire-purchase system. The estimated subsidy cost of all intensive cultivation schemes for the year 1950-51 is Rs. 373.23 lakhs and the estimated balance of bonus fund available for adjustment is Rs. 233.31 lakhs. On this basis, the grant due from the Government of India is Rs. 69.96 lakhs (half of Rs. 139.92 lakhs) and the Government of India have been requested to sanction this grant on a provisional basis in the accounts of 1950-51 itself, subject to necessary readjustments being made later in the accounts of 1951-52 and their orders of sanction are awaited. The State Government have therefore to bear out of their own finances a sum of about Rs. 70 lakhs being the balance of the subsidy cost not covered by the grant due from the Government of India. They have also to bear the cost of capital items (purchase of tractors, pumpsets, etc.) costing about Rs. 120 lakhs. For this purpose and for meeting the remunerative portion of irrigation schemes, the Government of India have already sanctioned a loan of about Rs. 136 lakhs.

Q.—12. With reference to answer to clause (1) are the Government satisfied with the results so far achieved under the new set-up under the three-year intensive plan, when the achievements are far below the targets while the expenditure continues to be high?

A.—Yes. The attention of the hon. Member is invited to the answers furnished to the supplementary questions Nos. 1, 3 and 4 above.

Q.—13. Whether the Hon. Minister is in charge of this so called integrated development three-year plan?

A.—No. The attention of the hon. Member is invited to the paper placed on the table of the House in reply to the starred question No. 818. The progress of intensive cultivation schemes under the three-year plan is being reviewed periodically by the Cabinet Committee for Food Production, of which the Hon. Chief Minister is the Chairman and the Hon. Ministers for Agriculture, Food, Public Works, Land Revenue and Finance are Members.

Q.—14. With reference to answers to clauses (i) to (k) have the Government at any time reviewed the targets fixed with reference to actual achievement and consequently reduced the allotments to various items in which achievements are poor?

[16th April 1951]

A.—With reference to changes in the total units of fertilizers, seeds, etc., based on allocations, the targets also undergo revision. But in respect of items like paddy seeds, green manure seeds, etc., where the achievement of the programmed number of units depends upon seasonal and other conditions, all possible steps are being taken by the Agricultural Department to keep up to the targets and it has not been considered necessary to reduce the targets piece-meal.

Q.—15. In view of the fact large amounts are being spent on capital cost of machinery some of which has proved useless mostly for want of spare parts, whether the Government have considered the desirability of reviewing the work already done, rectify the mistakes committed and plan out for the future by appointing an independent committee consisting of members unconnected with any of the schemes?

A.—Wherever import of capital machinery like tractors is involved, steps are also taken to insist on the import of spare parts up to a certain percentage of the cost of machinery involved. In fact, the condition for grant of import licence for the import of tractors by the Government of India is that a certain percentage of the cost of machinery should be imported as spare parts. Generally, there is not much difficulty in obtaining spare parts, as they have been included in the Open General Licence and their purchase is now being effected on a planned basis. All purchases of agricultural machinery are made only after approval by a special committee constituted for the purpose, viz., the Agricultural Machinery Advisory Committee, which includes a non-official member also. The work of the Agricultural Engineering Branch is being reviewed by Government. The Engineers with the Manufacturers' representatives in this country, so far as tractors are concerned, are inspecting the machinery periodically and advising this Government on their improvement. Their suggestions are being implemented wherever possible. The Government do not therefore consider it necessary to constitute a committee as suggested by the hon. Member.

Q.—16. What is the amount of net expenditure involved in carrying out the various intensive cultivation schemes and whether the whole or a part of it is recovered from the beneficiaries?

A.—The implication of the question is not very clear. If 'Net' expenditure is to mean only gross total expenditure Minus amounts recoverable from the beneficiaries, that net expenditure is borne only by the State Government and the Centre. If this question seeks information about the basis on which amounts are recovered from the ryots, the basis is not uniform or the same for all schemes. Phosphatic fertilizers are being sold at half cost. Pesticides are also generally sold at half cost, while paddy seeds, millet seeds and green manure seeds which are procured from seed farm ryots after the payment of certain fixed rates of seed farm premium are generally sold to ryots after waiver of the seed farm premium. In the case of oil-engines and pumpsets owned by the Agricultural Department and hired out to the ryots, the

[16th April 1951]

hire charges are so fixed as to cover approximately 50 per cent of the working cost, depreciation, interest, etc. In the case of rural compost, the Government are paying a subsidy of Re. 1 per ton of compost made by ryots from waste vegetable matter, etc., in pits dug by them in their own fields subject to the supervision of the local Agricultural Demonstrators. Ammonium sulphate is sold on a 'no profit no loss basis'.

Q.—17. Whether the Government propose to place on the table of the House a balance sheet and profit and loss accounts relating to these intensive schemes on the lines of those prepared for the State Trading Schemes?

A.—It is presumed that this question has particular reference to the years 1949-50 and 1950-51. The total subsidy cost of all intensive cultivation schemes for 1949-50 is still pending final reconciliation by the Accountant-General, Madras, and adjustment against procurement bonus fund. Complete financial particulars for the year 1950-51 are not yet available, as the returns for March 1951 have not yet been received. It is not also clear whether a balance sheet of profit and loss will help a better appreciation of the progress made under each scheme, as the scope of each scheme with its special characteristics is different. For example, in the case of ammonium sulphate, where no net cost is involved, a very large additional production is definitely expected. The Government therefore doubt the usefulness of preparing a balance sheet for these schemes.

APPENDIX II.

[Vide answer to starred question No. 208 asked by Sri R. Suryanarayana Rao at the meeting of the Legislative Council held on 16th April 1951, page 880 supra.]

A.—(a) to (c)—

Name of the hospital.	Bed strength of each hospital.	Actual number of in-patients on 31st December 1950.	Nursing staff employed in each hospital.
1 Rajah Sir Ramaswami Mudaliar's Lying-in-Hospital, Madras	100	181	17
2 Government Stanley Hospital, Madras.	462	724	139
3 Kasturba Gandhi Hospital for Women and Children, Madras	407	435	125
4 Government Hospital for Women and Children, Madras	386	596	198
5 Government Royapetta Hospital, Madras	230	229	32
6 Government General Hospital, Madras.	887	1,165	254
7 Government Ophthalmic Hospital, Madras	302	416	19

(d) The scale for the employment of nurses in the following hospitals which are training centres for nurse-pupils is one staff

[16th April 1951]

nurse and 2.5 pupil-nurses for every 15 beds and in other Government medical institutions which are not training centres, the scale is one nurse for every eight beds :—

- Government General Hospital, Madras.
- Government Stanley Hospital, Madras.
- Kasturba Gandhi Hospital for Women and Children, Madras.
- Erskine Hospital, Madurai.
- Raja Mirasidar Hospital, Tanjore.
- King George Hospital, Visakhapatnam.
- Government Headquarters Hospital, Guntur.
- Government Headquarters Hospital, Coimbatore.
- Government Headquarters Hospital, Salem.
- Government Headquarters Hospital, Kozhikode.
- Government Headquarters Hospital, Mangalore.

(e) & (g) The strength of the nursing staff at present employed is reasonably adequate and there is no need to consider any general increase.

(f) The answer is in the negative.

APPENDIX III.

[Vide answer to starred question No. 213 asked by Sri R. Suryanarayana Rao (on behalf of Sri P. R. K. Sarma) at the meeting of the Legislative Council held on 16th April 1951, pages 888 supra.]

Name of factory. (1)	Rate of house-rent paid per mensem. (2)
1 Government Automobile Workshops.	Persons whose pay is less than Rs. 40—Rs. 5. Persons whose pay is between Rs. 40—79—Rs. 7. Persons whose pay is between Rs. 80—150—Ten per cent.
2 Government Press (Penitentiary Branch).	Do.
3 Transport House, Government Transport Department.	Do.
4 Highways Department Workshop, Saidapet.	Do.
5 College of Engineering Workshops, Guindy.	Do.
6 Map Publication Department, Central Survey Office.	Do.
7 Madras Civil Supplies Transport Unit.	Do.

[16th April 1951]

Name of factory. (1)	Rate of house-rent paid per mensem. (2)
8 Government Milk Factory.	Casual workers are not paid house-rent. The monthly paid staff are paid as follows :— Persons whose pay is less than Rs. 40—Rs. 5. Persons whose pay is between Rs. 40—79—Rs. 7. Persons whose pay is between Rs. 80—150—Ten per cent.
9 Government Coach Building Factory, Chrompet.	Persons drawing Rs. 80 and less—Rs. 7. Persons drawing between Rs. 80—150—Rs. 10. No separate house-rent allowance is paid to daily paid workers.
10 Government Industrial Engineering Workshops.	Persons drawing less than Rs. 40—Rs. 5. Persons drawing Rs. 40 and above—Rs. 7.
11 Central Polytechnic	Persons drawing below Rs. 40—Rs. 5. Persons drawing Rs. 40 and above—Rs. 7.
12 Government General Hospital (Laundry section).	—Rs. 5
13 Gas House, Government General Hospital.	Gas Stockers and Assistant Gas Mechanics—Rs. 5. Gas Mechanics—Rs. 7.
14 Government Textile Institute	Rs. 5, Rs. 7 and Rs. 10 respectively according to pay drawn. House Rent Allowance is not paid to skilled and unskilled workmen as their pay is not drawn in establishment bill, but paid from contingencies.
15 Institute of Leather Technology.	Do.
16 Government Press, Madras.	Persons drawing less than Rs. 40—Rs. 5. Persons drawing between Rs. 40—79—Rs. 7. Persons drawing Rs. 80 and above—Rs. 10.
17 Public Works Department Workshops.	Persons drawing less than Rs. 40—Rs. 5. Persons drawing between Rs. 40—79—Rs. 7. Persons drawing Rs. 80—150—Rs. 10. Subject to a maximum that no worker would get more than Rs. 165 including pay plus house-rent allowance.
18 M.E.S.C. Emergency Power Station, Basin Bridge.	Monthly paid— Persons drawing up to Rs. 40—Rs. 5. Persons drawing between Rs. 41—80—Rs. 7. Persons drawing between Rs. 81—100—Rs. 10. Over Rs. 100, ten per cent of the pay subject to marginal adjustment that no worker would get more than Rs. 165 including pay plus house-rent allowance.
19 Madras Electricity System, Power Station, Villivakkam.	(There is no separate staff for Villivakkam.)

[16th April 1951]

APPENDIX IV.

[Vide item V (1) on page 890 supra.]

L.A. BILL No. 6 OF 1951.

(As passed by the Assembly.)

A Bill further to amend the Madras City Police Act, 1888, and the Places of Public Resort Act, 1888.

WHEREAS it is expedient further to amend the Madras City Police Act, 1888, and the Places of Public Resort Act, 1888, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title. 1. This Act may be called the Madras City Police and Places of Public Resort (Amendment) Act, 1951.

Insertion of new section 40-A in Madras Act III of 1888. 2. In the Madras City Police Act, 1888, after section 40, the following section shall be inserted, namely:—

Prohibition of smoking in certain places where entertainments are held. " 40-A. (1) If any entertainment (including a cinematograph exhibition, dance or drama) to which members of the public are admitted, whether on payment or not, is held in an enclosed place or building, then, no person shall, during the prohibited period as defined in sub-section (2), smoke either—

(a) on the stage except in so far as smoking may be part of the entertainment, or

(b) in the auditorium, that is to say, in that portion of the enclosed place or building in which accommodation is provided for members of the public:

Provided that the State Government may, by notification in the *Fort St. George Gazette*, exempt any class of entertainments from the provisions of this sub-section.

(2) For the purposes of sub-section (1), 'prohibited period' means so much of the period commencing thirty minutes before the beginning of the entertainment and ending with the termination thereof, as may fall within the hours which the State Government may, by notification in the *Fort St. George Gazette*, specify in this behalf for entertainments generally or any class of entertainments.

(3) Any person who contravenes the provisions of this section shall be liable to be ejected summarily from the enclosed place or building by any Police-officer and shall also be punishable with fine which may extend to fifty rupees.

(4) A person ejected under sub-section (3) shall not be entitled to the refund of any payment made by him for admission to the entertainment or to any other compensation."

[16th April 1951]

Madras Act of 1888.

3. In the Places of Public Resort Act, 1888, after section 12, the following section shall be inserted, namely:—

Insertion of new section 12-A in Madras Act II of 1888.

" 12-A. (1) If any entertainment (including a cinematograph exhibition, dance or drama) to which members of the public are admitted, whether on payment or not, is held in an enclosed place or building, then, no person shall, during the prohibited period as defined in sub-section (2), smoke either—

Prohibition of smoking in certain places where entertainments are held.

(a) on the stage except in so far as smoking may be part of the entertainment, or

(b) in the auditorium, that is to say, in that portion of the enclosed place or building in which accommodation is provided for members of the public:

Provided that the State Government may, by notification in the *Fort St. George Gazette*, exempt any class of entertainments from the provisions of this sub-section.

(2) For the purposes of sub-section (1), 'prohibited period' means so much of the period commencing thirty minutes before the beginning of the entertainment and ending with the termination thereof, as may fall within the hours which the State Government may, by notification in the *Fort St. George Gazette*, specify in this behalf for entertainments generally or any class of entertainments.

(3) Any person who contravenes the provisions of this section shall be liable to be ejected summarily from the enclosed place or building by any Police-officer and shall also be punishable with fine which may extend to fifty rupees.

(4) A person ejected under sub-section (3) shall not be entitled to the refund of any payment made by him for admission to the entertainment or to any other compensation."

APPENDIX V.

[Vide item V (2) on page 914 supra.]

L.A. BILL No. 7 OF 1951.

(As passed by the Assembly.)

A Bill further to amend the Madras Civil Courts Act, 1873, and the Madras Village Courts Act, 1888.

Madras Act of 1873. Madras Act of 1889.

WHEREAS it is expedient further to amend the Madras Civil Courts Act, 1873, and the Madras Village Courts Act, 1888, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. (1) This Act may be called the Madras Civil and Village Courts (Amendment) Act, 1951.

Short title and commencement.

[16th April 1951]

(2) It shall come into force on such date as the State Government may, by notification in the *Fort St. George Gazette*, appoint.

Amendment
of Central
Act III of
1873.

2. In the Madras Civil Courts Act, 1873—

Central Act
III of 1873.

(1) in section 12, for the words "three thousand rupees" in the second paragraph which relates to the jurisdiction of District Munsifs, the words "five thousand rupees" shall be substituted;

(2) in section 28, for the words "rupees one thousand" in the second paragraph which relates to the small cause jurisdiction of District and Subordinate Judges, the words "two thousand rupees", and for the words "rupees three hundred" in the third paragraph which relates to the small cause jurisdiction of District Munsifs, the words "five hundred rupees" shall be substituted.

Modification
of Madras
Act I of
1889.

3. (1) Notwithstanding anything contained in the Madras Village Courts Act, 1888, the State Government may, by notification in the *Fort St. George Gazette*, direct that the provisions of section 13 of that Act shall, in relation to such village courts and with effect from such date or dates as may be specified in the notification, have effect as if for the words "rupees fifty" occurring in that section, the words "one hundred rupees" were substituted.

(2) Nothing in sub-section (1) shall be deemed to affect the operation of section 132 of the Madras Village Panchayats Act, 1950.

Madras Act
X of 1950.

APPENDIX VI.

[Vide item V (3) on page 919 supra.]

L.A. BILL No. 8 OF 1951.

(As passed by the Assembly.)

A Bill further to amend the Madras Hackney Carriage Act, 1911.

WHEREAS it is expedient further to amend the Madras Hackney Carriage Act, 1911, for the purpose hereinafter appearing; It is hereby enacted as follows:—

Madras Act
V of 1911.

Short title.

1. This Act may be called the Madras Hackney Carriage (Amendment) Act, 1951.

Amendment
of section 3,
Madras Act
V of 1911.

2. In section 3, clause (3), of the Madras Hackney Carriage Act, 1911, after the brackets and words "(including a cycle-rickshaw)", the words "not owned by the State Governments" shall be inserted.

Madras Act
V of 1911.

[16th April 1951]

APPENDIX VII.

[Vide item V (4) on page 920 supra.]

L.A. BILL No. 10 OF 1951.

(As passed by the Assembly.)

A Bill further to amend the Madras Wild Elephants Preservation Act, 1873.

Madras Act
I of 1873.

WHEREAS it is expedient further to amend the Madras Wild Elephants Preservation Act, 1873, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Madras Wild Elephants Preservation (Amendment) Act, 1951.

Madras Act
I of 1889.

2. In section 3-A of the Madras Wild Elephants Preservation Act, 1873, in the first paragraph, the words "if specially authorized by the Board of Revenue," and the words "as the Board of Revenue may direct or" shall be omitted.

Amendment
of section
3-A, Madras
Act I of
1873.

APPENDIX VIII.

[Vide item V (5) on page 922 supra.]

L.A. BILL No. 11 OF 1951.

(As passed by the Assembly.)

A Bill further to amend the Madras Borstal Schools Act, 1925.

Madras
Act V of
1926.

WHEREAS it is expedient further to amend the Madras Borstal Schools Act, 1925, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Madras Borstal Schools (Amendment) Act, 1951.

Short title.

Madras
Act V of
1926.

2. In section 2 of the Madras Borstal Schools Act, 1925 (hereinafter referred to as the said Act), after clause (3), the following clause shall be added, namely:—

Amendment
of section 2,
Madras
Act V of
1926.

Madras
Act III of
1937.

"(4) 'Probation officer' means a person appointed to be a probation officer under the Madras Probation of Offenders Act, 1936."

3. In section 4, sub-section (2), of the said Act, the word "and" at the end of clause (d) shall be omitted, and after clause (e), the following clause shall be added, namely:—

Amendment
of section 4,
Madras
Act V of
1926.

"(f) the powers and duties of probation officers under this Act."

[16th April 1951]

Amendment
of section 8,
Madras
Act V of
1926.

4. In section 8 of the said Act, in the proviso, after the words "any report or representation which may be made to it", the brackets and words "(including any report or representation made by the probation officer of the area in which the offender permanently resided at the time when he committed the offence)" shall be inserted.

Insertion of
new sec-
tion 13-A
in Madras
Act V of
1926.

5. After section 13 of the said Act, the following section shall be inserted, namely:—

Reception of
offenders
from, and
transfer of
offenders
to, other
States in
India.

"13-A. (1) The State Government may, by general or special order notified in the *Fort St. George Gazette*, direct that any specified Borstal school in this State shall be available for the reception of adolescent offenders in respect of whom a sentence of detention in a Borstal school or other school of a like nature has been passed by any Court or Magistrate in any other State in India; and thereupon, provision may be made for the removal of the adolescent offenders concerned accordingly:

Provided that no such order shall be made without the consent of the Government of the other State concerned.

(2) The State Government may direct any inmate of a Borstal school in this State to be transferred to any Borstal school or other school of a like nature in any other State in India:

Provided that no such transfer shall be made without the consent of the Government of the other State concerned.

(3) The State Government may consent to the transfer to a Borstal school in this State, of a person detained in any Borstal school or other school of a like nature in any other State in India.

(4) The provisions of this Act shall apply to any person who is removed or transferred to a Borstal School in this State in pursuance of sub-section (1) or sub-section (3), as if he had been originally sentenced to detention in a Borstal school in this State."

Amendment
of section
14, Madras
Act V of
1926.

6. In section 14 of the said Act, for the words "Visiting Committee", the word "Superintendent" shall be substituted.

Omission of
section 19-F,
Madras
Act V of
1926.

7. Section 19-F of the said Act shall be omitted.

[16th April 1951]

APPENDIX IX.

[Vide item V (6) on page 931 supra.]

L.A. BILL No. 12 OF 1951.

(As passed by the Assembly.)

A Bill to provide for the supply of unclaimed bodies of deceased persons to teaching medical institutions for the purpose of anatomical examination and dissection.

WHEREAS it is expedient to provide for the supply of unclaimed bodies of deceased persons to teaching medical institutions for the purpose of anatomical examination and dissection; It is hereby enacted as follows:—

1. (1) This Act may be called the Madras Anatomy Act, 1951. Short title, extent and commencement.

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

(3) This section shall come into force at once.

(4) The State Government may, by notification in the *Fort St. George Gazette*, direct that the remaining provisions of this Act shall come into force on such date and in such area as may be specified in the notification.

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

(a) "authorized officer" means an officer authorized under section 3;

(b) "hospital" means any hospital established or maintained by the State Government, or by any municipal council, district board or panchayat and includes any other hospital which may be declared by the State Government, by notification in the *Fort St. George Gazette*, to be a hospital for the purposes of this Act;

(c) "near relative" means any of the following relatives of the deceased, namely, a wife, husband, parent, son, daughter, brother or sister and includes any other person who is related to the deceased (i) by lineal consanguinity within three degrees or by collateral consanguinity within six degrees, or (ii) by marriage with any of the relatives aforesaid;

Explanation.—The expressions "lineal consanguinity" and "collateral consanguinity" shall have the meanings assigned to them in the Indian Succession Act, 1925, and degrees of relationship shall be computed in the manner laid down in that Act.

(d) "prescribed" means prescribed by rules made by the State Government under this Act;

(e) "teaching medical institution" means any of the institutions specified in the Schedule to this Act and includes any other institution which may be declared by the State Government, by notification in the *Fort St. George Gazette*, to be a teaching medical institution for the purposes of this Act.

trial Act
XIX of
5.

[16th April 1951]

(f) "unclaimed body" means the body of a person who dies in a hospital, prison or public place, which has not been claimed by any of his near relatives within such time as may be prescribed.

Power of State Government to authorize officers to act under section 4.

3. (1) The State Government may, by notification in the *Fort St. George Gazette*, authorize for the area in which this Act comes into force or any part thereof, one or more officers to whom a report shall be made under section 4 and who shall be competent to act under the said section.

(2) Every officer authorized under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Central Act
XLV of
1860.

Unclaimed dead bodies in hospitals, prisons and public places how to be dealt with.

4. (1) If a person dies in a hospital or in a prison and his body is not claimed by any of his near relatives within such time as may be prescribed, the authority in charge of such hospital or prison shall, with the least practicable delay, report the fact to the authorized officer, and the said officer shall take possession of the unclaimed body and except in the case referred to in sub-section (3), hand it over to the authority in charge of a teaching medical institution, if it is required by that authority, for the purpose of conducting anatomical examination and dissection.

(2) If a person dies in any public place in an area in which he had no permanent place of residence and the body of that person is not claimed by any of his near relatives within such time as may be prescribed, the authorized officer shall take possession of the unclaimed body and except in the case referred to in sub-section (3), hand it over to the authority in charge of a teaching medical institution, if it is required by that authority, for the purpose specified in sub-section (1).

(3) When there is any doubt regarding the cause of death or when for any reason the authorized officer considers it expedient so to do, he shall forward the unclaimed body to the police officer referred to in section 174 of the Code of Criminal Procedure, 1898.

Central Act
V of 1898.

(4) Where any unclaimed body taken possession of by the authorized officer under this section is not required by the authority in charge of a teaching medical institution for the purpose specified in sub-section (1), it shall be disposed of in such manner as may be prescribed.

5. (1) If any doubt or dispute arises whether a person is or is not a near relative of the deceased for the purposes of section 4, the matter shall be referred in the City of Madras, to a Presidency Magistrate, and elsewhere to a Magistrate of the First Class, and the decision of such Magistrate shall be final.

Doubt or dispute as to near relative to be referred to Presidency Magistrate or Magistrate of the First Class.

[16th April 1951]

(2) Pending such decision, the body of the deceased person shall be preserved from decay in such manner as may be prescribed.

6. Whoever disposes of, or abets the disposal of, an unclaimed body save as provided by this Act, or obstructs any authority in charge of a teaching medical institution or an authorized officer from handing over, taking possession of, removing or using, such dead body for the purpose specified in section 4, shall be punishable with fine which may extend to five hundred rupees.

Penalty.

7. All officers and servants of the Police, Medical and Public Health departments, all officers and servants in the service of a local authority, and all village officers and servants shall be bound to take all reasonable measures to assist authorized officers in the discharge of their duties under this Act.

Duty of police and other officers to assist in obtaining possession of unclaimed bodies.

8. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act.

Protection of persons acting under this Act.

9. The State Government may, by notification in the *Fort St. George Gazette* make rules for carrying out the purposes of this Act.

Power to make rules.

THE SCHEDULE.

1. The College and School of Indigenous Medicine, Madras.
2. The Madras Medical College, Madras.
3. The Stanley Medical College, Madras.
4. The Medical College, Guntur.
5. The Andhra Medical College, Visakhapatnam.

APPENDIX X.

[Vide item V (7) on page 945 supra.]

L.A. BILL No. 32 OF 1950.

(As passed by the Assembly.)

A Bill further to amend the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948.

WHEREAS it is expedient further to amend the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948, for the purposes hereinafter appearing: It is hereby enacted as follows:—

1. This Act may be called the Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1951.

[16th April 1951]

Amendment
of sections 1
2,
Madras Act
XXVI of
1948.

2. In sections 1 (4) and 2 (10) of the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (hereinafter referred to as the said Act), after the figure "9," the figures and letter "58-A," shall be inserted.

Amendment
of section 17,
Madras Act
XXVI of
1948.

3. In section 17 of the said Act—

(i) in sub-section (1), in the first paragraph, after the words "Where any land", the brackets and words "(not consisting of an entire village)" shall be inserted; and the words "irrespective of whether such land consists of only a portion of a village or of one or more villages" shall be omitted;

(ii) in the proviso to the same sub-section, the words "where the land granted on service-tenure is an entire village" and "in such village" shall be omitted.

Amendment
of section 38,
Madras Act
XXVI of
1948.

4. In section 38 of the said Act, for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) Nothing contained in this section shall apply where any land (not consisting of an entire village) granted on service-tenure to the institution falls under section 3, clause (16) (c) of the Estates Land Act."

Insertion of
new section
38-A in
Madras Act
XXVI of
1948.

5. After section 38 of the said Act, the following section shall be inserted, namely:—

Payment of
allowance by
religious
institutions.

"38-A. (1) Where an inam estate or part thereof was held immediately before the notified date by an individual on condition of rendering service to a religious institution, the individual shall, notwithstanding anything contained in this Act, be bound to render such service after the notified date, if he is required to do so by a written notice sent to him by the institution within such time as may be specified by the Government in this behalf.

(2) Any such individual who renders the service on being required to do so by the institution as aforesaid shall be entitled to be paid by the institution every year such sum as may be fixed by agreement between the individual and the institution, and if no such agreement can be reached, such sum as may be fixed by the Board constituted under the Madras Hindu Religious Endowments Act, 1926, in accordance with such rules as may be made by the Government in this behalf:

Provided that if the individual pays to the institution the amount of compensation paid to him under this Act, the institution shall, in lieu of the sum aforesaid, pay to the individual every year a sum equal to the aggregate of the amounts which would be payable by the Government under section 38, if the inam estate or part thereof was held immediately before the notified date by a religious institution.

Madras Act
XXVI of
1948.

Madras Act
II of 1927.

[16th April 1951]

Explanation.—For the purposes of this section, 'individual' means the person who would have held the inam estate or part thereof, if it had not vested in the Government under this Act."

6. After section 58 of the said Act, the following section shall be inserted, namely:—

Insertion of
new section
58-A in
Madras Act
XXVI of
1948.

"58-A. (1) No Court shall, before the date on which the deposit in pursuance of section 54-A is made, order or continue execution in respect of any decree or order passed against the principal or any other landholder of an estate, against his interest in the estate or against his other immovable property, or against him personally by arrest and detention; and with effect on and from such date, execution in the cases aforesaid may be ordered or continued as specified in, and in accordance with the provisions of, section 59.

(2) Where in execution of any such decree or order, any interest in the estate or any other immovable property of the principal or any other landholder has been sold or foreclosed on or after the 19th April 1949, then, notwithstanding anything contained in the Indian Limitation Act, 1908, or in the Code of Civil Procedure, 1908, and notwithstanding that the sale has been confirmed, such landholder may apply to the Court within ninety days of the commencement of the Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1951, to set aside the sale or foreclosure of the property; and the Court shall, if satisfied that the applicant is a landholder, order the sale or foreclosure to be set aside, and thereupon the sale or foreclosure shall be deemed not to have taken place at all:

Provided that no such order shall be made without notice to the decree-holder, the auction purchaser, and other persons interested in such sale or foreclosure and without affording them an opportunity to be heard in the matter:

Provided further that the Court shall not order any such sale to be set aside, unless the Court is satisfied that the sale price was unduly low.

(3) Where a sale is set aside under sub-section (2), the purchaser shall be entitled to an order for repayment of any purchase money paid by him against the person to whom it has been paid:

Provided that no poundage shall be payable in respect of any such sale and provided further that where poundage has been collected, the Court shall direct the same to be refunded.

(4) All proceedings for the execution of any decree or order by the arrest and detention in prison of the principal or any other landholder of an estate, pending at the commencement of the Madras Estates (Abolition and Conversion into

Stay of
execution
proceedings
and setting
aside of
certain Court
sales and
foreclosures.

Madras Act
of 1908.
Madras Act
of 1908.

[16th April 1951]

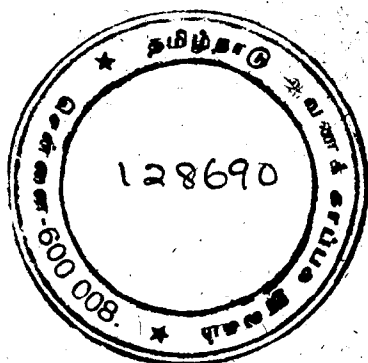
Name of the village.	Zamindari estate in which situated.
(1)	(2)
13 Kudikattanendal	
14 Narikudi Palakurichi	
15 Poovandiendal	
16 Kuruviendal	
17 Agara Endal	
18 Vollikurichi	
19 Nalloor	
20 Valimarichan	
21 Siviariendal	
22 Thunaimalapuram Kumilangulam	
23 Gangayadi Thevadilingavayal	
24 Nelliendal	
25 Thanavayal	
26 Gnaniyarendal	
27 Vettakaranendal	
28 Koratti (portion granted in inam)	
29 Thambiraparani	
30 Kuthanendal	
31 Manickanendal	
32 Athiendal	
33 Poorali	
34 Thavalimandapam	
35 Aniyiruppu	
36 Alagarappan Malligai Madai	
37 Somathoor	
38 Sellappanendal	
39 Marudavayal (portion granted in inam)	
40 Kandanipatti (portion granted in inam)	
41 Savarapallam (portion granted in inam)	
42 Kadiyavayal	
43 Pachhendal	
44 Periyamangudi	
45 Vadakku Thevarendal	
46 Perandakulam	
47 Thevarendal	
48 Thokkanendal	
49 Pillayarendal	
50 Punnangudi	
51 Karkulam	
52 Kallanjipatti (portion granted in inam)	
53 Surikkanendal	
54 Pudukkanmoikadambankulam	
55 Pudoor Senthanoorani (portion granted in inam)	
56 Kudikattendal	
57 Keelakandani	

Sivaganga
—cont.

16th April 1951]

Name of the village.	Zamindari estate in which situated.
(1)	(2)
58 Udayanasamudram	
59 Uranikottai (portion granted in inam)	
60 Sathakone Valasai	
61 Valayankulam	
62 Sethupuram	
63 Telichathanallur (portion granted in inam)	
64 Umayandavayal	
65 Nenmeni (portion granted in inam)	
66 Aradaendal (portion granted in inam)	
67 Pooranathanendal (portion granted in inam)	

Rama-
natha-
puram.



CONTENTS

	PAGES
I Questions and Answers	977-986, 1044-1055
II Government Resolution re the retirement of the Secretary to the State Legislature	986-997
III Government Bills—	
(1) The Madras Estates (Abolition and Conversion into Ryotwari) Second Amendment Bill, 1950 (L.A. Bill No. 32 of 1950)— <i>cont.</i>	997-1004
(2) The Madras Village Panchayats (Amendment) Bill, 1951 (L.A. Bill No. 13 of 1951)	1004-1011, 1056
IV Modifications to the Madras Public Service Commission Regulations, 1950	1011-1031
V Resolution re Postponement of Elections to February 1952	1031-1043

THE MADRAS LEGISLATIVE COUNCIL.

Tuesday, the 17th April 1951.

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

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Nursing staff in the various State hospitals.

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

- the number of trained nurses available;
- the number employed in the various hospitals of the State and of local bodies;
- the number of nurses who remain unemployed;
- the number of nurse pupils selected every year for training;
- whether pupil nurses selected for training are required to enter into any contract and whether they are assured of employment on completion of training; and
- whether the Government will make a statement on the adequacy or otherwise of the nursing staff in the existing hospitals, the prospects of employment for all trained nurses, the efforts made by Government to mitigate unemployment and other cognate matters?

THE HON. DR. T. S. S. RAJAN:—(a) 5,586 on 1st January 1951.

“(b) State hospitals 1,204. The exact number of nurses employed in hospitals under the local bodies is not known, but it will be more than 600.

“(c) Details are not maintained, but Government are aware that demands for private nurses are not always fully met.

“(d) 200.

“(e) Nurse pupils selected for training are required to execute an agreement to regulate their allowances, work and conduct during training and to serve Government for a period of six months only, if called upon to do so. They are not assured of employment under Government on completion of their training.

“(f) A Press Communique on the subject was issued on the 30th December 1950. As stated therein, nurse pupils are trained not merely to fill up posts in Government medical institutions but also to provide trained nursing personnel for employment in hospitals and dispensaries maintained by

V211, 32 (N51)

N51.4.13-16

[17th April 1951]

local bodies and other agencies, nursing homes run by medical practitioners and for private sick nursing. The nursing staff in Government institutions is reasonably adequate."

SRI B. BHIMA RAO :—" May I know whether the ratio of one nurse to fifteen beds mentioned by the Hon. the Minister yesterday is maintained so far as hospitals maintained by the Government in the mufassal are concerned? "

THE HON. DR. T. S. S. RAJAN :—" I am not aware whether the ratio is maintained in the mufassal hospitals. If requests come from local bodies and if nurses also are available, we supply them to the hospitals."

SRI B. BHIMA RAO :—" Is the Hon. the Minister aware that there is not one nurse for fifty beds in the mufassal hospitals? "

THE HON. DR. T. S. S. RAJAN :—" I am not aware, Sir. If the hon. Member says it is a fact, I take it."

SRI R. SURYANARAYANA RAO :—" May I know whether the Government will be pleased to refer the point raised by me in clause (f) of the question to the Committee—if the suggestion of the hon. Member, Dr. Lakshminaraswami Mudaliyar made yesterday is accepted by the Government and a Committee is appointed—so that there may be no question of unemployment among the trained nurses? "

THE HON. DR. T. S. S. RAJAN :—" My answer on behalf of the Government is there and I gave it yesterday. I would advise the hon. Member to wait for the decision of the Government."

DR. SYED TAJUDDIN :—" How many beds a nurse can cater to satisfactorily? "

THE HON. DR. T. S. S. RAJAN :—" It depends upon the particular hospital to which the nurses are drafted."

DR. SYED TAJUDDIN :—" I want to know the average number of beds that a nurse can cater to, taking all the hospitals into account."

THE HON. DR. T. S. S. RAJAN :—" It is very difficult to say that nor is it possible to lay down a general rule in this regard because it depends upon the number of sick people requiring nursing. We may say that one nurse may be able to serve at least about fifteen beds."

DR. SYED TAJUDDIN :—" Having this average in view, may I know, Sir, whether the Government Hospitals at least are maintaining this ratio? "

THE HON. DR. T. S. S. RAJAN :—" I have given the total number of nurses employed by the State which is a little over 5,000. The present distribution of nurses is fairly satisfactory."

3917

[17th April 1951]

JANAB K. T. M. AHMED IBRAHIM :—" Are the Government satisfied with the present nursing strength in the Government Ophthalmic Hospital? Have the Government received any representation from the Superintendent of the Hospital regarding the inadequacy of the nursing staff in the Hospital? "

THE HON. DR. T. S. S. RAJAN :—" If a representation had been sent, it would certainly have been received by the Government. But I may state that the Ophthalmic Hospital does not stand absolutely on a par with other hospitals in this matter and considering the nature of the ailment and the disease, I should say that the amount of nursing required in that hospital must be less."

SRI R. SURYANARAYANA RAO :—" The Hon. the Minister a few minutes back said that a little over 5,000 nurses were under State employment. May I draw his attention to his answer to the main question that 5,586 trained nurses are available and that only 1,204 nurses have been employed by the Government? "

THE HON. DR. T. S. S. RAJAN :—" It is just so. It is only a mathematical error and nothing more? "

DR. SYED TAJUDDIN :—" When there is so much of inadequacy of nursing staff, why not the Government consider the question of employing more hands for nursing? "

THE HON. DR. T. S. S. RAJAN :—" The Government will certainly take in as many hands as are necessary."

SRI B. BHIMA RAO :—" Are any stipends given to these persons during the period of training? "

THE HON. DR. T. S. S. RAJAN :—" No, Sir."

SRI B. BHIMA RAO :—" May I know whether any other encouragement is given to them so that they may get employment after the training is over? "

THE HON. DR. T. S. S. RAJAN :—" The Government do not undertake to get them employment. They undertake to give them instruction in nursing."

JANAB K. T. M. AHMED IBRAHIM :—" May I know whether the Government are really satisfied with regard to the number of nurses allotted to the Ophthalmic Hospital even though the nature of work in that hospital may not require as many nurses as are required by other hospitals? "

THE HON. DR. T. S. S. RAJAN :—" I have not got the information with me just now to answer this question."

DR. SYED TAJUDDIN :—" May I know whether there have not been representations from the Superintendents of Hospitals either to the Surgeon-General or to the Government that there is inadequacy of nursing staff in the hospitals? "

THE HON. DR. T. S. S. RAJAN :—" I shall make the necessary enquiries."

[17th April 1951]

local bodies and other agencies, nursing homes run by medical practitioners and for private sick nursing. The nursing staff in Government institutions is reasonably adequate."

SRI B. BHIMA RAO :—" May I know whether the ratio of one nurse to fifteen beds mentioned by the Hon. the Minister yesterday is maintained so far as hospitals maintained by the Government in the mufassal are concerned? "

THE HON. DR. T. S. S. RAJAN :—" I am not aware whether the ratio is maintained in the mufassal hospitals. If requests come from local bodies and if nurses also are available, we supply them to the hospitals."

SRI B. BHIMA RAO :—" Is the Hon. the Minister aware that there is not one nurse for fifty beds in the mufassal hospitals? "

THE HON. DR. T. S. S. RAJAN :—" I am not aware, Sir. If the hon. Member says it is a fact, I take it."

SRI R. SURYANARAYANA RAO :—" May I know whether the Government will be pleased to refer the point raised by me in clause (f) of the question to the Committee—if the suggestion of the hon. Member, Dr. Lakshmanaswami Mudaliyar made yesterday is accepted by the Government and a Committee is appointed—so that there may be no question of unemployment among the trained nurses? "

THE HON. DR. T. S. S. RAJAN :—" My answer on behalf of the Government is there and I gave it yesterday. I would advise the hon. Member to wait for the decision of the Government."

DR. SYED TAJUDDIN :—" How many beds a nurse can cater to satisfactorily? "

THE HON. DR. T. S. S. RAJAN :—" It depends upon the particular hospital to which the nurses are drafted."

DR. SYED TAJUDDIN :—" I want to know the average number of beds that a nurse can cater to, taking all the hospitals into account."

THE HON. DR. T. S. S. RAJAN :—" It is very difficult to say that nor is it possible to lay down a general rule in this regard because it depends upon the number of sick people requiring nursing. We may say that one nurse may be able to serve at least about fifteen beds."

DR. SYED TAJUDDIN :—" Having this average in view, may I know, Sir, whether the Government Hospitals at least are maintaining this ratio? "

THE HON. DR. T. S. S. RAJAN :—" I have given the total number of nurses employed by the State which is a little over 5,000. The present distribution of nurses is fairly satisfactory."

3917

[17th April 1951]

JANAB K. T. M. AHMED IBRAHIM :—" Are the Government satisfied with the present nursing strength in the Government Ophthalmic Hospital? Have the Government received any representation from the Superintendent of the Hospital regarding the inadequacy of the nursing staff in the Hospital? "

THE HON. DR. T. S. S. RAJAN :—" If a representation had been sent, it would certainly have been received by the Government. But I may state that the Ophthalmic Hospital does not stand absolutely on a par with other hospitals in this matter and considering the nature of the ailment and the disease, I should say that the amount of nursing required in that hospital must be less."

SRI R. SURYANARAYANA RAO :—" The Hon. the Minister a few minutes back said that a little over 5,000 nurses were under State employment. May I draw his attention to his answer to the main question that 5,586 trained nurses are available and that only 1,204 nurses have been employed by the Government? "

THE HON. DR. T. S. S. RAJAN :—" It is just so. It is only a mathematical error and nothing more? "

DR. SYED TAJUDDIN :—" When there is so much of inadequacy of nursing staff, why not the Government consider the question of employing more hands for nursing? "

THE HON. DR. T. S. S. RAJAN :—" The Government will certainly take in as many hands as are necessary."

SRI B. BHIMA RAO :—" Are any stipends given to these persons during the period of training? "

THE HON. DR. T. S. S. RAJAN :—" No, Sir."

SRI B. BHIMA RAO :—" May I know whether any other encouragement is given to them so that they may get employment after the training is over? "

THE HON. DR. T. S. S. RAJAN :—" The Government do not undertake to get them employment. They undertake to give them instruction in nursing."

JANAB K. T. M. AHMED IBRAHIM :—" May I know whether the Government are really satisfied with regard to the number of nurses allotted to the Ophthalmic Hospital even though the nature of work in that hospital may not require as many nurses as are required by other hospitals? "

THE HON. DR. T. S. S. RAJAN :—" I have not got the information with me just now to answer this question."

DR. SYED TAJUDDIN :—" May I know whether there have not been representations from the Superintendents of Hospitals either to the Surgeon-General or to the Government that there is inadequacy of nursing staff in the hospitals? "

THE HON. DR. T. S. S. RAJAN :—" I shall make the necessary enquiries."

[17th April 1951]

SRI R. RAMAKRISHNA NAIDU :—" May I know whether the Government are sending nurses for training abroad? "

THE HON. DR. T. S. S. RAJAN :—" I do not think so. "

SRI R. SURYANARAYANA RAO :—" In view of the fact that the attention of the Hon. the Minister has been drawn to the inadequacy of nursing staff in the Ophthalmic Hospital, will the Government kindly enquire into the question of adequacy or otherwise of nursing staff in all hospitals in general? "

THE HON. DR. T. S. S. RAJAN :—" I thought that my answer to a similar question put yesterday covered the entire ground. I may assure the hon. Member that the question will be looked into. "

The beggar problem.

* 215 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Education and Law be pleased to state—

(a) whether the Government have at any time considered seriously measures to deal with the beggar problem and if so, what they are;

(b) whether the system of grants-in-aid to local bodies and private recognized institutions for the maintenance of workhouses and beggar homes is in vogue and if so, on what basis such grants are made; and

(c) whether a list of local bodies and the private institutions in receipt of such grants and the amount of grant given in such cases can be furnished?

THE HON. SRI K. MADHAVA MENON :—" (a) The Madras Prevention of Begging Act, 1945 and sections 71-A to 71-L of the Madras City Police Act, 1888 [as introduced by the Madras City Police (Amendment) Act, 1941] make begging an offence and provide the penalty for begging or for the commitment of beggars to special homes and workhouses established under the Acts. No workhouses or special homes have been established directly by the Government as it has been their policy to leave this to the local bodies concerned. There are at present a special home and workhouse in the City of Madras maintained by the Corporation, and a special home in each of the Municipalities of Ootacamund, Coimbatore and Nellore maintained by the respective municipalities. The question of extending the provisions of the Madras Prevention of Begging Act, 1945, to any local area will be considered by Government as and when a local body establishes a workhouse or special home and applies to Government in this behalf.

" (b) The answer is in the negative.

" (c) The question does not arise. "

SRI R. SURYANARAYANA RAO :—" In view of the fact that the Government themselves are aware of the urgency to tackle this

[17th April 1951]

problem,, may I know what effective steps the Government have taken, what plan of action they have evolved, to give effect to the legislation they have enacted? "

THE HON. SRI K. MADHAVA MENON :—" Our plan of action is that if any local body signifies its willingness to open a beggar home, the Government will extend the provisions of the Act to that area so that beggary may be prevented. The Government at present do not propose to open nor have they opened workhouses for beggars. "

JANAB ABDUL LATIF FAROOKHI :—" Have the Government extended the provisions of the Act to any part of the State so far? "

THE HON. SRI K. MADHAVA MENON :—" Yes, Sir, to places like Nellore, Coimbatore and Ootacamund where the local bodies concerned have provided for workhouses. "

SRI R. SURYANARAYANA RAO :—" May I know if the Government have informed the local bodies that they would go to their assistance in tackling this problem if they undertake to maintain beggar-homes and workhouses? "

THE HON. SRI K. MADHAVA MENON :—" The assistance that the present Government can offer is they can extend the provisions of the Act to such areas where workhouses are provided by the local bodies concerned. "

JANAB ABDUL LATIF FAROOKHI :—" In view of the fact that this Act is a dead letter even in places where it has been extended, what steps do the Government propose to take to enforce the provisions of the Act effectively? "

THE HON. SRI K. MADHAVA MENON :—" The hon. Gentleman's presumption that the Act is a dead letter is absolutely wrong. "

JANAB ABDUL LATIF FAROOKHI :—" Are the Government have got figures relating to the number of professional beggars? "

THE HON. SRI K. MADHAVA MENON :—" I can give the information if a separate question is put. "

JANAB ABDUL LATIF FAROOKHI :—" Are the Government not aware that beggary is rampant even in those places where the Act is in force and, therefore, it is not possible to prevent beggary unless the Government take active steps in the matter? "

THE HON. SRI K. MADHAVA MENON :—" Beggary under certain conditions is an offence under the Act. Where such an offence is committed, the person concerned is arrested, produced before a magistrate and committed to a workhouse. "

SRI B. BHIMA RAO :—" Will the Government give financial assistance to such of the municipalities as have opened workhouses for beggars? "

[17th April 1951]

MR. CHAIRMAN :—" I think that question has already been answered."

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

11-15 a.m. SRI R. SURYANARAYANA RAO :—" May I know, Sir, whether the Act has been extended to the City of Madras? "

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

SRI R. SURYANARAYANA RAO :—" If so, Sir, are not the Government aware that the city is full of beggars and they are still roaming about without any kind of action being taken against them? "

THE HON. SRI K. MADHAVA MENON :—" Every beggar need not necessarily come within the provisions of the Act. To the extent they contravene the provisions of the Act, when they are found out they are charged by the Police and they are committed to the workhouses."

JANAB ABDUL LATIF FAROOKHI :—" May I know the number of cases in which action has been taken against the beggars? "

THE HON. SRI K. MADHAVA MENON :—" A separate question may be put, Sir."

SRI R. SURYANARAYANA RAO :—" May I know whether Government have drawn the attention of the Police authorities in the City to the fact that the beggar nuisance is increasing and that those that are liable to be punished under the Act should be dealt with? "

THE HON. SRI K. MADHAVA MENON :—" The capacity in the beggar homes may be one of the considerations for the Corporation and the Police in exercising a little discretion in deciding what cases should be charged and what cases should not be charged. Besides the Act, through good publicity the people should be told that giving improper alms should be stopped. That would be a good help to the Police in working this Act well."

DR. SYED TAJUDDIN :—" May I know roughly what percentage of this beggar problem has been solved in this City? "

THE HON. SRI K. MADHAVA MENON :—" That does not arise out of this question. If a separate question is put, I shall collect all the information and statistics on the matter and give an answer to the hon. Member."

SRI R. SURYANARAYANA RAO :—" Government themselves are aware that the present provision in the beggar homes and workhouses maintained by the Corporation is inadequate. Have the Government at any time received a request from the Corporation or are they going to ask the Corporation to extend the facilities in the existing homes and give all their assistance so that the City at least may be rid of beggars who are really guilty under the law? "

17th April 1951]

THE HON. SRI K. MADHAVA MENON :—" I cannot recollect whether the Corporation made a specific request for assistance but we are giving liberal grants generally to the Corporation out of which they are bound to maintain the workhouses."

The Madras Industrial Planning Committee.

* 216 Q.—SRI R. SURYANARAYANA RAO : Will the Hon. the Minister for Industries be pleased to state—

(a) what action, if any, has been taken on the recommendation of the Madras Industrial Planning Committee;

(b) whether the Government have formulated any schemes for industrial expansion, and if so, what they are; and

(c) what active steps, if any, the Government propose to take to promote industrial expansion in the State?

THE HON. SRI C. PERUMALSAMI REDDI :—" (a) The recommendations of the Industrial Planning Committee have been examined in detail in consultation with the various Departments of the Secretariat and the Heads of Departments and necessary action to implement them has been taken wherever possible. Some are still under consideration.

" (b) & (c) A detailed note" on the 'Industrial Progress of the State' is placed on the Table of the House."

SRI R. SURYANARAYANA RAO :—" May I refer the Hon. Minister to page 2 of the note? Under textile industries out of an allotment of 352,000 spindles made to the State under the post-war development plan only 121,540 have been utilized. May I know what has happened to the remaining spindles? Are there any applications pending with the Government? May I know whether the Government have surrendered the balance of spindles? "

THE HON. SRI C. PERUMALSAMI REDDI :—" We have not surrendered any spindles. The balance of spindles has been reallocated to a number of mills."

SRI R. SURYANARAYANA RAO :—" May I know whether the Government recently advertised inviting applications for starting of sugar factories in certain districts in the State? May I know what the response was? "

THE HON. SRI C. PERUMALSAMI REDDI :—" I think the response was good. We are going through the papers that we have so far received."

SRI R. SURYANARAYANA RAO :—" Will the Government consider the desirability of inviting applications in respect of other industries as well where provision has been made but has

[17th April 1951]

not been taken advantage of by private agencies, by promising all possible assistance in bringing these industries into existence including the textile industries?"

THE HON. SRI C. PERUMALSAMI REDDI:—"Yes, Sir."

SRI S. B. ADITYAN:—"May I know what is the present position with regard to the exploitation of lignite deposits in South Arcot district? It is understood that the Hon. Minister visited the spot with a German expert. May I know what is the present position?"

THE HON. SRI C. PERUMALSAMI REDDI:—"Yes, Sir. I had been there with the German expert. His report in the matter is awaited. As soon as his report is received we will consider what is to be done in the matter."

JANAB K. T. M. AHMED IBRAHIM:—"May I know, Sir, whether the Government contemplate taking any immediate steps for the manufacture of paper in view of the acute shortage of newsprint and other kinds of paper in the State?"

THE HON. SRI C. PERUMALSAMI REDDI:—"The Government are not taking any initiative in starting the industry. The K.C.P., Ltd., Vuyyuru, has proposed starting a mill. We propose to give them all the facilities required to start the mill."

JANAB K. T. M. AHMED IBRAHIM:—"Are the Government aware that there are vast quantities of raw materials, forest produce as well as by-products of the sugar industry, available in the State and have the Government taken any steps for the speedy utilization of these raw materials for the purpose of manufacturing paper?"

THE HON. SRI C. PERUMALSAMI REDDI:—"I have just now said that the K.C.P., Ltd., Vuyyuru, proposes starting a mill for the manufacture of paper. After this is started, probably others may take up the work of starting new factories."

SRI R. SURYANARAYANA RAO:—"While we are grateful to the Hon. Minister for Industries for the detailed information given to us, may I request the Hon. Minister to examine once again why certain persons who were granted permission to start industries such as heavy chemicals have not been able to start them and consider what further steps should be taken in order that the requirements of this State may be satisfied at an early date?"

THE HON. SRI C. PERUMALSAMI REDDI:—"We have to call for applications from different people to start the industry."

DR. SYED TAJUDDIN:—"May I know, Sir, whether the Government would think of the possibility of getting an expert from abroad to investigate and find out what kinds of trees of the forest can provide raw materials for the making of paper?"

[17th April 1951]

THE HON. SRI C. PERUMALSAMI REDDI:—"That is being done at Dehra Dun Forest Research Institute. Their reports are available and we are acting on their findings."

SRI R. SURYANARAYANA RAO:—"May I know, Sir, whether any of the industries will come under what is called 'Colombo' plan?"

THE HON. SRI C. PERUMALSAMI REDDI:—"I have no idea."

JANAB K. T. M. AHMED IBRAHIM:—"May I know, Sir, whether Government are taking steps to prevent the adulteration of ghee with what is known as Vanaspathi, and whether Government are taking any steps to colour Vanaspathi to prevent adulteration?"

THE HON. SRI C. PERUMALSAMI REDDI:—"Necessary steps are being taken by the Central Government in this respect, to colour and prevent adulteration of ghee with Vanaspathi."

Relief to Handloom Weavers.

* 217 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Industries be pleased to state—

(a) whether the attention of the Government has been drawn to the plight of handloom weavers in the State;

(b) what steps, if any, have been taken to secure redress and relieve their plight;

(c) whether the Government have made any representations to the Government of India on the subject and if so, what their reactions are;

(d) whether any distinction is observed in regard to supply of yarn to weavers within and outside the co-operative fold; and

(e) whether the Government will make a full statement on the question of yarn supply, its distribution and other cognate matters?

THE HON. SRI C. PERUMALSAMI REDDI:—"The answer is placed on the table."

JANAB K. T. M. AHMED IBRAHIM:—"May I suggest that the supplementaries to this question may be allowed to be put tomorrow in view of the long answer."

SRI C. VEERABHADRA RAO:—"I request that some time should be given for the consideration of this question. Some weavers have started satyagraha from yesterday and a memorandum has been presented to the Chief Minister in this connection. Some of the satyagrahis have been arrested."

[17th April 1951]

MR. CHAIRMAN :—" The question is there and the hon. Members can raise those points. But the question is whether we will do it now or tomorrow. There are three non-official resolutions for tomorrow."

THE HON. DR. T. S. S. RAJAN :—" I want to know whether we are to sit tomorrow?"

MR. CHAIRMAN :—" That is what I am asking?"

THE HON. DR. T. S. S. RAJAN :—" If there is work for tomorrow and if the Chair so directs we are prepared to sit tomorrow."

MR. CHAIRMAN :—" This question will be taken up tomorrow."

SRI C. VEERABHADRA RAO :—" Is it only for putting supplementaries?"

MR. CHAIRMAN :—" You can put supplementaries and if you are not satisfied with the answers, we shall consider the question later."

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

II.—GOVERNMENT RESOLUTION *RE* THE RETIREMENT OF THE SECRETARY TO THE STATE LEGISLATURE.

* THE HON. DR. T. S. S. RAJAN :—" The pleasantness in the performance of the duty of thanking one of those who have served the Legislature is indeed very great and I am glad, representing this House as the Leader, that it has fallen to my lot to say what I have to say regarding the work of our Secretary. Sir, Mr. Varma has been serving this Legislature for a good number of years. In fact my recollection is that I have been more or less in both the Houses all the time he was the Secretary. Therefore, it is in a way, though inconvenient and sometimes not very pleasant, I have got to say such things about him because he has done work indeed of a very good character, work of a sort which probably other people would have considered very inconvenient. He is a lawyer and I suppose that makes all the difference to other Secretaries who were here before him. We had before him Sri Krishna Ayyar, considered to be a very clever Secretary. Coming in his wake, with his help and guidance, Mr. Varma did develop very good traits of conduct and character with regard to the discharge of his duties in the Legislature. He is a man of few words in the sense that he is not given to loose talk or for that matter even to irresponsible talk. He is always to the point and gave such information as was necessary and was expected of him. His training not only in this Legislature but in Legislatures abroad, in England, where he was sent for such training has served him indeed very well and equally so all the other Members of the Legislatures with whom he came into contact. It gave him an atmosphere of responsibility both to the House and the Members in the discharge of his duties. It will be no exaggeration to say

17th April 1951] [Dr. T. S. S. Rajan]

that invariably we found him very very nice and engaging and what is more, very informing with regard to the advice he gave and the suggestions he offered to the Members in the discharge of their duties. Therefore he became more than a guide to the Members and that is where this appreciation lies. It is not the position or authority or responsibility that makes a man lovable, it is the way in which he discharges his duty that makes him sweet and loving and Mr. Varma in the discharge of the legislative duties was not only sweet but was correct to the point and very precise and therefore adverse criticism, unnecessary talk and loose and irresponsible gossip could not find a place in his vocabulary. To that extent his conduct in the Legislatures has been a sort of example to such of those that may care to follow him. I am sure he has left a line of conduct and behaviour in the Legislature for a quite long period that it will be more or less followed by those who come after him and making them deserve certainly, I am sure, all the approbation which he is getting today from the Houses of Legislature in Madras. Mr. Varma was also the Secretary of this Council for some time. His conduct was not different then although he divided his affection between the Council and the Assembly as often as occasion arose.

" Sir, I can simply say he has discharged his duties well and nicely but that would not be enough in the case of Mr. Varma in whom we found an exceptional, clever and attractive behaviour which does deserve the recognition of the legislative bodies which he has served for quite a long period with such distinction.

" Therefore, it is with pleasure that I record his services to the Houses of Legislature and I am sure I am echoing the sentiments of almost everyone in this House. I am also sure that there will be nothing gainsaying the facts I have mentioned and which were fully appreciated and responded to by the other House. He is fairly young and physically fit enough to undertake more strenuous work in this House. I wish him God-speed in future years in any walk of life he may enter."

MR. CHAIRMAN :—" The Hon. the Leader of the House may formally move the resolution."

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

' That the Honourable Chairman be requested to convey to Sri D. K. V. Raghava Varma, on his retirement from the office of the Secretary to the State Legislature, Madras, the assurance of this House's sincere appreciation of the distinguished and outstanding services which, by his ever-ready advice and his great knowledge of the law and custom of the Legislature he has rendered to it and to all its Members in the conduct of their business during upwards of 22 years all of which have been spent at the Table.' "

MR. CHAIRMAN :—" Motion moved—

' That the Honourable Chairman be requested to convey to Sri D. K. V. Raghava Varma, on his retirement from the office

[Mr. Chairman]

[17th April 1951]

of the Secretary to the State Legislature, Madras, the assurance of this House's sincere appreciation of the distinguished and outstanding services which, by his ever-ready advice and his great knowledge of the law and custom of the Legislature he has rendered to it and to all its Members in the conduct of their business during upwards of 22 years all of which have been spent at the Table.

DR. U. RAMA RAU :—“ Mr. Chairman, Sir, I have known Sri D. K. V. Raghava Varma from the time he was Deputy Secretary. He has been very honest and his work was always very efficient. If there was any doubt, he at once used to go to the library and bring a book for reference. He was a lawyer and he went to England and had the opportunity of knowing the procedures in the House of Commons and the House of Lords. I am only sorry that he is leaving us and it would have been much better if we had asked him to continue for some more time. I am very happy to record my appreciation of his work as Deputy Secretary and I wish him God-speed.”

* SRI D. KRISHNAMURTHI :—“ Mr. Chairman, Sir, I join in the general chorus of appreciation of the distinguished services rendered by Mr. Varma. I have known him from his hostel days and also in the 1930 and 1946 Legislative Councils. He is a gentleman to the core. I am glad he is retiring from service. But, at the same time I am sorry that he is leaving us at a time when a gentleman of his standard and character is certainly wanted to be a beacon light in the years to come. He had his political training under that distinguished statesman, the late Rajah of Panagal. He had his parliamentary training in the Mother of Parliaments in the United Kingdom and later on he brought that experience to bear on his office as Secretary. I hope that the Government would bear in mind his excellent achievements and would give due and adequate recognition to his services.”

* JANAB K. T. M. AHMED IBRAHIM :—“ Mr. Chairman, Sir, I have great pleasure in giving my wholehearted support to the resolution on behalf of the Muslim League Party. We have not had opportunities of frequent contacts with him; still, we have known him sufficiently well to appreciate his high qualities, great abilities and distinguished and outstanding services to the Legislature. Both by temperament and attainments, Sir, Mr. Varma is eminently fit to be Secretary of any Legislature. He is a gentleman to the core. He is amiable, genial and social and I can say he is not capable of using a harsh word against anybody. He has mastered the written and unwritten law of parliamentary procedure in a unique manner with the result that he has been invariably able to assist the Legislature and its Members with correct advice. It is no exaggeration to say that he has been an ideal Secretary and has served the Legislature with great distinction. He is a man of quick grasp and the discharge of the duties entrusted to him has been further marked by sincerity, integrity of character and conscientiousness. He would be an asset to any legislature and it is regrettable and unfortunate that his retirement should have

[17th April 1951] [Janab K. T. M. Ahmed Ibrahim]

come just at a time when his services are required most. Just more than a year only has elapsed since the Constitution of our country has come into force and this is the time for our Legislature to build up its democratic structure on proper and secure foundations by laying down healthy and salutary conventions, and his profound and intimate knowledge of the law and conventions of the Legislature, and his long, rich and varied experience covering more than two decades will of course be of immense value to our Legislature during this formative period. Sir, I must make special mention of his highly accommodative nature also. Changes in the political complexion of the Legislature and Government did not affect him in the least in the discharge of his duties. The very fact that he has been quite at home with the Members of all political parties throughout his long career at the Table and that he has received universal praise and approbation from all quarters is positive proof of his high qualities and great attainments. Therefore, Sir, we were extremely disappointed when we learnt that he was not willing to avail himself of the proffered extension of service. But, it is also not fair or just for us to deprive him of his well-earned rest by impressing him into service again. We wish him long life, health, wealth and prosperity and continued service to the country whatever may be the sphere of activity which he may select for himself in future.”

* SRI B. BHIMA RAO :—“ Mr. Chairman, Sir, I want to say only a few words. I have known him for the last 15 years. He is really the pink of courtesy and a gem among gentlemen. He is liked by each and every one. He is like *Ajatasatru* and I do not think there is any one who has to say any harsh word about him. I only wish that the Ministry exercises a little more persuasion to make him accept the extension of term for another two or three years. Really would we need his assistance when the new Legislature comes into existence. A man of that varied experience will be an asset to the new Legislature. I only request the Hon. Minister to exercise a little more persuasion and see that Mr. Varma continues to serve the Legislature in future however short the period may be. Failing that, the only and last alternative left is to pass this piece of praise well deserved by him. I wish him a happy and prosperous future.”

SRI K. VENKATASWAMI NAYUDU :—“ Mr. Chairman, Sir, it is very difficult to speak in a restrained language when one wants to speak of Mr. Varma because he has got the most distinguished and outstanding record of service to his credit which is unique in this State. For a short period he was a Major in the army and that military service has stood him in good stead. He is a man of excellent habits. In the recent Speakers' Conference he did great service and the good place that Madras held in the Speakers' Conference was due to his help and advice. He is a model of a great officer of this State. He is still young and energetic and I hope his services will be requisitioned whenever needed and he will serve the country in a still higher capacity. I wish him the best of luck.”

[17th April 1951]

DR. SYED TAJUDDIN :—" Mr. Chairman, Sir, I wish to associate myself with the chorus of praise which Mr. Varma rightly deserves on the eve of his retirement. I know him ever since he joined Government service. I know him as Deputy Secretary and Secretary to the Legislature for a fairly long time. He has proved himself to be a worthy successor to a worthy predecessor. He has proved himself to be the right man in the right place. Sir, I do not want to detail all the qualities of his mind, heart and spirit.

11-45
a.m.

" In one word, I may say that he is a multi-faceted gem of the first order. As the Secretary of an important Legislature, as a sportsman, as a friend and a guide to all the legislators and also as a guide to his own office, he proved himself to be of very great importance. Sir, when I heard that he was going to retire, I was taken aback. When he told me how many years of onerous service he had already put in, I could not believe it, because, time had flown with such rapidity and so silently that I could not have any conception of the long period of great service he had put in the department. As some other hon. Member just now said, his services are most needed at this juncture when independent India will return its representatives for the new Legislature under adult franchise. I asked him why he did not make up his mind to continue to give his meritorious service as he had already been doing. He expressed his own personal reasons for it. But, if I am not letting out any secret, I heard, Sir, that even the Government asked him to continue in service but that he was not in a position to do so. Anyway, Sir, I wish him God-speed and the best of luck."

* SRI R. SURYANARAYANA RAO :—" Mr. Chairman, Sir, we are grateful to the Government for making this motion, as otherwise, perhaps we would not have an opportunity of paying our humble tribute of admiration to Mr. Varma on his retirement from the distinguished office of Secretaryship of the Legislature. Sir, I labour under a very peculiar difficulty, because though I have not been in contact with him as a member of the Legislative Assembly as many other Members of that House have been, my personal relationship with Mr. Varma has been so intimate that if there is any one at all who does not like Mr. Varma, he may think that I have been partial in my estimate of his character and great work. Sir, there is no Member of both the Houses of this Legislature who has come in contact with Mr. Varma that has not been captivated by his genial presence and charming manners. Every Member knows how unruffled he is whenever he is approached in the midst of his heavy work. He would courteously listen and render every assistance possible. Though we are not daily and intimately connected with his work in this House, we knew that he was the man behind the scene as the Secretary of the State Legislature. Sir, one of the great characteristics of Mr. Varma which I appreciate is that he is not only thorough in his work but he never hesitates to give his opinion even when he knew that what he offered might not please the authorities seeking the same. I know, Sir, on many occasions, he has given opinions which have

17th April 1951] [Sri R. Suryanarayana Rao]

not been accepted and quite different rulings and different opinions have been expressed by the authorities. But, still, he did not flinch from giving advice which he felt was correct and which his knowledge and experience of Parliament and the Legislature made him feel was the right advice to give on any question that was referred to him. Sir, he is leaving a great legacy behind him and I am sure those who succeed him will carry on that legacy and perhaps may add to it and make it richer and see that the great traditions which he has built up are maintained, and that the great line of conduct that he had prescribed for himself is followed. Most of us who served on the Joint Select Committees came into more intimate contact with him and there, we found what a pleasant companion he was. It was a pleasure to be on a Joint Select Committee, to go about with him and attend meetings. The only thing is, Sir, we are not allowed to sing while passing this resolution. If we are allowed, we can all sing 'What a jolly good fellow he is.'"

THE HON. SRI K. MADHAVA MENON :—" Sir, it may seem rather strange that I should speak now after the Leader of the House has moved this resolution. I want to join in the chorus of tribute to Mr. Varma and to pay my tribute and homage for the great service that he has done. I rise to speak because I have a particular right to do so. I do not think anybody in this House has worked so closely with him as I have. Of course, he was the Secretary of this Council when it was first formed in 1937 and my particular association with him was, as Mr. Suryanarayana Rao said, as a Member—and rather an active member on many occasions,—and as the Chairman of Joint Select Committees appointed by both the Houses on very big, and in fact, almost all controversial Bills such as instance, the Estates Abolition Bill, the Hindu Religious Endowments Bill, the City Improvement Trust Bill, the Aliyasantana Bill, and the Malabar Tenancy (Amendment) Bill, not to speak of various other Bills. In all these cases where there were Joint Select Committees, and particularly in the case of Bills where the House gave permission for the Committee to sit outside Madras, nobody could have imagined the extent of the resourcefulness of Mr. Varma; apart from the proceedings of the Committee, by arranging for everything that the Committee wanted, he put us in such an atmosphere as to make us work happily. As a person who has closely worked with him, I know how resourceful, how accommodating and how amiable he is. Sir, one has only to speak to Mr. Varma and say that he is in need of such and such a thing. Then, he need not know anything else thereafter. Mr. Varma was absolutely silent and very effective in whatever he did. I may repeat that it was a privilege and a pleasure to work with him. I will not be fair to myself if I do not express openly when I have got this opportunity, how resourceful, amiable and helpful Mr. Varma was, particularly in the strenuous work of Select Committees, whether they are held in this Chamber or in various other parts of this

[Sri K. Madhava Menon] [17th April 1951]

State. Occasions there were in Select Committees when we were fumbling to find out a solution and Mr. Varma would give just a hint, sitting on my right side, and solve my difficulties. The wonderful part of it is that he was silent in the Select Committees. He used to simply scribble some notes and—I have never cared to know what exactly he was scribbling—and whatever might be the number of witnesses that we might have examined, at the end of the day, I would get the proceedings of the right type and of what had been happening in the meeting. He did this not with the help of stenographers but with the scribbling that he did during the meeting, and I never felt that from such a silent work of scribbling something would materialize in the form of entire proceedings of what happened during the day. I would get these proceedings perhaps before I left for home or left the place of the meeting. Such was the thoroughness with which he did things. Particularly in the Select Committees, he made every one of us feel at ease. It is rather difficult to believe that he is fifty-five years old from the way in which he has been working. Often times on many occasions, we feel that this age rule of 55 works hardship. But, much can be said also in favour of the rule. Many people will be expecting promotions and unless some people make way, other people cannot come in. Sometimes, some persons who are expecting promotions would naturally curse those who accept extensions. But, apart from that, this is one of the cases where we feel that the age rule has worked a hardship. Anyhow, he is going away and we can only offer him our appreciation of his services; we wish him a very happy career wherever he goes and our good wishes will be with him wherever he is."

JANAB ABDUL LATIF FAROOKHI:—"Sir, on behalf of the Opposition, I associate myself with every word that has fallen from the lips of hon. Members who preceded me today. I feel, Sir, that it is given only to a few to hear such great praise for the work that they have done and in that respect, Sir, I feel that Mr. Varma is singularly fortunate. His great work has been appreciated in both the House of the Legislature and I feel that it can be no small satisfaction to a person who has done his work conscientiously. But, I think there is the fact that he does not like to avail himself of the offer of extension. If I remember aright, it was said in the other House that an offer of extension was made to Mr. Varma but that he did not like to avail himself of it. So, Sir, apart from the desire on the part of the Members in both the Houses that he should be given extension, Government themselves wanted that extension should be given to him, but he did not avail himself of that offer. Sir that speaks volumes about his character.

12
noon

"Sir, many people not merely try but beg and beseech for extensions, but we rarely come across a gentleman of the type of Mr. Varma who refused to accept an extension. That itself is a great thing which nobody can forget. I think that Mr. Varma feels

[17th April 1951] [Janab Abdul Latif Farookhi]

that he should not only not stand in the way of other people in the office stepping into his shoes, but that after having done conscientious work for such a long time it is better that officials retire when people do not speak ill of them. Not a word has been said by anybody against him. The chorus of appreciation in both the Houses not only from Members of the Government Party but also from the Members of the other parties shows the great respect and the great popularity which Mr. Varma enjoys. Sir, he has been trained under great people. Let me not close my speech without a reference to the late Raja of Panagal whose leadership was a great asset to this State. He was a noble statesman and under that noble ancestor and relative of his Mr. Varma was trained. That training has stood him in good stead. Never has any Member of this House or the other House gone to Mr. Varma and failed to get courteous treatment and all the help that he required. In my own experience he has often gone out of his way to help Members. Sir, we are losing the services of a popular Secretary, one whose integrity and ability we cannot forget. I am glad, as my hon. Friend Mr. Suryanarayana Rao has said, that the Government have brought this motion before the House to give an opportunity to the Members to say what they feel about Mr. Varma. We all wish him a long, happy and prosperous life. In whatever walk of life he may enter hereafter, may God give him prosperity and success."

MR. CHAIRMAN:—"I thought that Mr. Varma was a favourite with the women Members of the House as well." (Laughter.)

MRS. MONA HENSMAN:—"Mr. Chairman I rise to pay my humble tribute to the Secretary of the Legislature, and I do not propose to say on this occasion everything that I could say about Mr. Varma; a great deal of it I shall reserve for saying outside this Legislature. But we, the two women Members of the House—for I am sure Mrs. Clubwalla would join me in this—cannot let this opportunity pass without saying one or two words of cheer to the friend who is retiring. I would specially point out that Mr. Varma has taught us the cultural side as well as the red-tape and the legal side of the work of the Legislature. Sir, for 14 years I have had the privilege of being a Member of this House. Part of the time it is true we did not meet but to those of us who have been unacquainted with the procedure of the Legislature, the problems have been many and sometimes have seemed overwhelming. But when we approached Mr. Varma for help, guidance and advice, we have never returned without our eyes being opened to a great many more things than we went in for, and we were helped, even at some inconvenience to himself.

"I wish to say in this connection a word about my experience in the Select Committees. I have enjoyed the privilege of going out of Madras on one of those Select Committees and there, as everywhere, Mr. Varma showed his true worth. There, on road journeys, Mr. Varma always put himself at ease in a bus even on the worst roads and never travelled in a car. He was always at

[Mrs. Mona Hensman] [17th April 1951]

cheerful in welcoming as in seeing us off. He would see us off at one place and arrive at the other place before other people arrived (how I do not know), and make everything happy and comfortable for us. Not only this; I noticed another thing about him, especially in Palghat which we visited. The office of the temporary Legislative Council was situated in another part of the town and Mr. Varma took just as much care for the accommodation and comforts of the clerks as for the Members of the Committee. Sir, this is saying a great deal. Many of us would like to see our friends and our equals well treated, but very few people have the forethought and the consideration to make things easy for those who have got to do the work and who may not be able to claim privileges.

"Sir, we are glad to welcome him and honour Mr. Varma in this House. He has always had so much good taste, so much learning, so much wit and humour. There is also another thing about him; he was, what shall I call it, impervious, whether the person he spoke to was a man or a woman. He was always impartial in his views and in his appreciation of a member's contribution, and he always noticed if any one was outside the circle, or felt awkward, so that he could draw him in. This may not always be a compliment, but it is meant as a compliment today. He took as much interest in the contribution of women as of men.

"Then Sir, many people may be very good at their work, may be excellent administrators and may possess an encyclopaedic knowledge regarding their profession, but on the social side they may not be quite good, in fact, they may be sadly lacking. They may not be able to put themselves in the place of the other people, nor have the gift of sympathy.

"Sir, we have never felt that Mr. Varma belongs to any one Province or any one State. He belongs to all India. He knows Lucknow as much as his own Kalahasti, Madras, or any other place in South India. He knows the country from north to south and from east to west. His holidays have been spent throughout our country. I am sorry that we will soon be missing his help, and losing his services for this Legislature. I am glad that he does not look as old as fifty-five. He has no right to retire for his mind and heart are only as old as thirty-five. We trust that he will be able, when he travels and goes to other parts of the world, to interpret India, her people and her culture to others who may meet him and talk with him, so that they may feel 'here is a gentleman who has shown us India in a new light'. I join other hon. Members of this House in paying a tribute to him and wishing him a happy retirement. Retirement is a ridiculous word to use with Mr. Varma present, but as he says he is retiring, we must use the word today. I hope it will mean the opening of new and very much happier sphere of life for him, so that he may be able to do all the things he wanted to do and see all the places and the people he wanted to see. All these years the four walls of the Legislature kept him bound and prevented him from seeing and doing so much that his adventurous spirit craved to accomplish. We wish him well in all he does. Let him not forget us."

17th April 1951]

SRI M. NARAYANA MENON :—"Sir, I want to say a few words on this occasion."

MR. CHAIRMAN :—"Does the hon. Member want to say a few words about the Malabar Tenancy Bill?" (Laughter.)

SRI M. NARAYANA MENON :—"The Malabar Tenancy Bill is over now unless it is brought forward again in some other form. I now want to say a few words regarding Mr. Varma. I have never heard such a volume of praise from an august body like this regarding an officer who is retiring. I knew Mr. Varma especially in connection with the work of the Joint Select Committee on the Malabar Tenancy Bill. To know him is to love him and remember him and never to forget him. That is my impression of him, in short. His company is always pleasing. He is courteous as well as dignified. He will always be remembered for his work as a model Secretary and for the efficiency of his work. I am sure he will come back to this House as a model legislator and perhaps as a model Minister also. I wish him happiness and long life and I wish him also honest work for the sake of the people."

MR. CHAIRMAN :—"The question is—

'That the Honourable Chairman be requested to convey to Sri D. K. V. Raghava Varma, on his retirement from the office of the Secretary to the State Legislature, Madras, the assurance of this House's sincere appreciation of the distinguished and outstanding services which, by his ever-ready advice and his great knowledge of the law and custom of the Legislature he has rendered to it and to all its Members in the conduct of their business during upwards of 22 years all of which have been spent at the Table.'"

The motion was carried unanimously.

MR. CHAIRMAN :—"Now that the motion has been passed, I am free to say what I feel in the matter. On an occasion like this it is a matter of sincere pleasure and gratification to me to learn how Mr. Varma's services have won the appreciation of both the Houses of the Legislature. The Madras Legislature is next to none in the capacity and the quality of the Members and it must be a matter of sincere pride to any one to have earned the approbation of such a body as this. The number of Members who are praising Mr. Varma is not small: it is nearly 300. It is hard indeed to earn the approbation of one master. But to have earned the approbation of three hundred masters is really a feat which it is not possible for ordinary human beings to achieve. As I said, it is a matter of personal gratification and pleasure to me because Mr. Varma and myself have been family friends for the past nearly three decades. I have known him and all the members of his family as he has known mine. We have shared our joys and sorrows equally all through these years. It was therefore a matter of sincere pleasure to me when my lot was thrown with his five years ago. It was only the consummation of a life-long period of friendship which brought us together as Secretary and President of this

[Mr. Chairman] [17th April 1951]

Legislative Council. Though there was some difference in status, I am sure we never felt over-burdened or in any way embarrassed by the situation. Mr. Varma was always the same to me all these years. It is not necessary for me to say anything about his capacity and his learning or erudition in matters of legislation. Hon. Members have already spoken about the same. I wish to say here and now that whenever Mr. Varma was asked for any opinion, he gave it without any thought whether it was pleasing to the person who asked for it or not. Without any fear or hesitation he gave the opinion which he felt was the correct opinion. I should think that his training as a military man must have stood him in very good stead. His exterior; all of you know how pleasing it is. I do not know whether any one inside or outside the House can recall even a single occasion when Mr. Varma had a frown on his face. He can be strict and severe on occasions, but none of us found a frown or anger on his face. It is really a great quality that one can be severe with a smile on his face, as our Chief Minister sometimes does. That is a great quality which ought to be admired; and I am sure it is the quality which has endeared him to all with whom he came into contact. As an instance of the high qualities of integrity that he possesses, the last incident to which Mr. Farookhi Sahib referred is enough. I know Mr. Varma has been pressed all-round to continue in service. I exerted all my pressure, as a friend, as a family friend, as a great well-wisher and lastly even as Chairman; I requested him to continue for some time longer as Secretary; but the only answer that he always gave me was: 'On principle, I am opposed to all extensions, and I do not want to set a bad example myself. I have finished my service and I am going; I do not want to stand in the way of anybody else'. That is the only answer he has always given me, and I highly praised the mental calibre which made him give up this job, which I am sure so many people would covet not only upto 55 years but even up to 65. Such a personality it is that we are losing now. I admire him for his great qualities as a man, as a thorough-going gentleman, a man of great sincerity and a man who possesses almost all the good characteristics of a perfect gentleman which he is. It is a matter of sincere sorrow that I as Chairman, have to part company with Mr. Varma. I know Mr. Varma will always be a dear friend to me. I should have very much liked that he continued to give his service here not only to me but to all of you, so long as we all are here, which will be for some time more. But we have now to part as friends even before we are likely to quit ourselves. I will only assure Mr. Varma that this praise that is being given to him is not merely conventional; he knows full well that this House and the other House are absolutely sovereign in their own sphere; they need not praise this man or that for anything but if they do praise him to-day it is because they sincerely feel that Mr. Varma ought not to go without knowing how these people who are exercising sovereign authority in the State feel about him. I am sure he is over-burdened with the kind of praise that is offered to him, and I am sure he will also appreciate the House's goodness in having passed this resolution about him. I wish Mr. Varma all

17th April 1951] [Mr. Chairman]

prosperity and usefulness in his, I am sure, long life to come. If anybody has got any hope that he will come to the political field, I may tell him that he is not so inclined. I myself put it to Mr. Varma that he might enter politics, but he said 'I am not so made; I do not think I am fit for the political field, and I have no intention of entering the political field'. So it may be that we are losing Mr. Varma's service in every respect in the Legislature, and we only hope that wherever he will be, God will be with him, and that he will spend his life as usefully as he has been doing while here as Secretary. God Bless him."

III.—GOVERNMENT BILLS.

(1) THE MADRAS ESTATES (ABOLITION AND CONVERSION INTO
RYOTWARI) SECOND AMENDMENT BILL, 1950 (L.A. BILL NO. 32 OF
1950)—*cont.*

SRI B. BHIMA RAO :—" Sir, what happened yesterday was."

MR. CHAIRMAN :—" Has the hon. Member Mr. Suryanarayana Rao, finished his speech? "

* SRI R. SURYANARAYANA RAO :—" No, Sir; you were good enough to ask me to wait till I got the explanation of the Hon. Minister to the point I raised.

" Sir, my submission yesterday was in respect of section 38-A itself. You drew the attention of the Hon. Minister to clause 9 and asked him why he thought it necessary to exclude these estates in the schedule. My point now is with regard to clauses 3 and 4 of the Bill itself. Why were these entire villages first included, and why are they proposed . . . "

MR. CHAIRMAN :—" I have enquired into the matter, and what I was told is this. The Government have taken over estates, and they took up these inams also. They got a report from the Collectors concerned that they were under-tenures, and so the Government issued a notification declaring these villages to be under-tenures. But further enquiry brought to light the fact that some of these inams were not under-tenures, that some of them were 1936 inams and some of them might come under the Act or might not come under the Act—they were not able to decide. Under those circumstances, they wanted to correct the notification. The notification was wrong in the sense that some estates and some inams which were not so, were called under-tenures, and that kind of mistake had to be rectified. Legal opinion however was that the notification could not be modified by the Government, and that it could be done only by an amendment of the Act. That is why all these villages are now to be excluded from the provisions of the Act; and after the necessary enquiry is completed, perhaps there will be another notification which will say which are 1936 inams, which are under-tenures, etc. Therefore, I think the Government are correct."

[17th April 1951]

* SRI R. SURYANARAYANA RAO :—" Then my next point is about the proposed section 58-A, clause (6). According to that clause, there is to be not only stay of execution proceedings, but the setting aside of certain court sales and foreclosures. Who was responsible for this lacuna in the law? The Government are now enacting a law by which they want to set aside decrees already obtained—not only stay of proceedings but the actual setting aside of certain court sales and foreclosures. Why did not the Government anticipate this when they enacted the first Bill and why do they now come forward and unsettle things which have been already settled? I cannot understand this. Either they have not got one mind and settled views in the matter or they have now changed their minds. Why did they not anticipate these things? A Joint Select Committee sat for days together, and the other House considered the Bill though this House refused to consider it at a certain stage and all these provisions were made then. But now to reopen the whole thing is not proper."

THE HON. SRI K. MADHAVA MENON :—" I just want to correct a small mis-statement, Sir. Some persons here in this House refused to take part in the discussions; but I am sure this House never refused to take part although some Members might have left the House at the time."

* SRI R. SURYANARAYANA RAO :—" I am speaking subject to correction, Sir. It is true some of us did not take part at a certain stage in the discussions on the Zamindari Abolition Bill. I am sorry; the House did consider it, but some of us did not take part at a certain stage. The Hon. Minister is perfectly justified in correcting me."

MR. CHAIRMAN :—" It was a shock to me to hear that this House refused to consider the Bill, and yet it became an Act."

SRI R. SURYANARAYANA RAO :—" There is a proviso introduced here—

" Provided further that the Court shall not order any such sale to be set aside, unless the Court is satisfied that the sale price was unduly low."

Sir, this House can do many things; we can even set aside the orders of the High Court if we think we are competent; but the reopening of proceedings which have already been completed is really not proper. What I want to know is; why do the Government want to make all these changes now? The Hon. Minister did not explain to us as he ought to have done, but he took it for granted that because the other House had passed the Bill, we would also say 'ditto' here."

MR. CHAIRMAN :—" Perhaps he thought you would have read his statement there and so he thought it unnecessary to repeat it here once again."

17th April 1951]

* SRI R. SURYANARAYANA RAO :—" But there may be many hon. Members here who may be affected by this, as very many interests are represented here. They may like to know why these changes are made now. I have not in fact given notice of any amendments, because no purpose will be served by doing so, since the Minister has made up his mind and he will not accept any amendment from us even if it is a verbal alteration, or even an alteration of a comma or a full-stop. He has brought forward this Bill just at the time when the other House is not likely to sit for another four months. That is another way of rushing through this Bill here. Sir, I find important changes are being effected, though they may appear to be innocuous. With these few words, Sir, I feel that the Hon. Minister should explain further and enlighten the Members of this House."

* SRI B. BHIMA RAO :—" Sir, I am one of those who are not satisfied with the explanation given yesterday by the Hon. Minister with regard to clause 9 of the Bill, which is wrongly printed in the schedule as 'section 7' even for correcting which, the Bill may have to go to the Assembly. Sir, I have seen various errata published in the *Fort St. George Gazette* to notifications originally published, to the effect that some villages came within the provisions of this legislation and afterwards they were revised and corrected. I may also bring to your notice section 7 of Madras Act XXVI of 1948 which says that—

"The Board of Revenue shall have power—

(a) to give effect to the provisions of this Act and in particular to superintend the taking over of estates and to make due arrangements for the interim administration thereof;

(c) to cancel or revise any of the orders, acts or proceedings of any Settlement Officer other than those in respect of which an appeal lies to the Tribunal or of any manager; and

(d) to cancel or revise any of the orders, acts or proceedings of the Director or of any District Collector, including those passed, done or taken in the exercise of revisional powers."

So, under Section 7 (d) of Act XXVI of 1948, the Board of Revenue has got power to revise its own orders and cancel them. I do not understand how the Legal department of Government gave the opinion that it must have the impress of the Legislature to exclude some villages, while publications in the *Fort St. George Gazette* themselves demonstrate that in several cases original orders have been revised and departed from after their publication.

Sir, we all know the saying that Caesar's wife must be above suspicion."

MR. CHAIRMAN :—" You, know my views also about it. I say why alone Caesar's wife and not others' wives?"

SRI B. BHIMA RAO :—" Sir, here in the election manifesto it is said that zamindaris must all be abolished and that the cultivators must be given ryotwari pattas, so that they might own the land and cultivate them as though they were the owners of those lands."

12-30
p.m.

[Sri B. Bhima Rao] [17th April 1951]

What would the public think of us, Members of the Legislature, if the 67 villages, very important villages in the zamindaris of Ramana-nathapuram and Sivaganga, the leading zamindaris of the south, wherefrom our Chief Minister hails, are to be excluded from the provisions of the Act—clause 9? Sir, I think, I have examined all the relevant sections. The Board of Revenue itself has got the power to rectify any erroneous notification and the Government itself can do it. I do not know the reason which impels the Government to seek the vote of this House upon this important question. Here, I may mention one instance. I do not know, Sir, whether you were a member of the Legislature under the Montford Reforms. I happened to be here on the occasion when the Hindu Religious Endowments Bill was being introduced by the late Raja of Panagal. I believe it was the member from South Kanara, the Hon. Dr. U. Rama Rao, who moved an amendment then that the eight maths in Udipi might be excluded from the operation of that Bill. Then the Hon. Raja of Panagal immediately got up and said he could not make any such distinction."

MR. CHAIRMAN :—" If the hon. Member thinks that these villages should be excluded once for all, I do not know whether he is correct. I understand, some enquiries are going on and they will come in again. It is not as though they are going to exclude them once for all. I do not know, and it is better it is left to the Government."

* SRI B. BHIMA RAO :—" I do not know, Sir. The Hon. Minister has not taken us into his confidence and he has not also given complete details as to how the original mistake was committed and how the notification was published and under what circumstances they published it. They have not also stated who the owners of these villages are, how it is they have now come to a different conclusion, and why it is that instead of the Board of Revenue acting under Section 7 of the Act, they now seek this Legislature to set its seal on this enactment. I think it is just that the Hon. Minister should place us in complete possession of all the details and the particulars with regard to these villages before we are asked to vote on this question."

* THE HON. SRI H. SITARAMA REDDI :—" Sir, let me answer the last point first. The hon. Member from Bellary seems to be feeling that section 9 which seeks to correct a mistake is unnecessary, that it is superfluous to bring it before this House, that under section 7 of the Abolition Act the Board of Revenue has got the power and so he feels that we are doing a thing which is superfluous. As a Member, who is well experienced with the law of the land, he thinks that he should get full clarification of this matter before he can vote upon this. Sir, I shall just give in detail the causes that led the Government to include the present section 9 and also the schedule under it. Yesterday in my introductory speech, I did say briefly why this was necessary, but evidently the hon. Member is not satisfied with it. I would like the hon.

17th April 1951] [Sri H. Sitarama Reddi]

Member to refer to section 1, sub-section (4) of the Abolition Act; which says that the Government may by notification appoint a date on which the provisions of the Abolition Act—other than certain sections—shall come into force in regard to any zamindari, under tenure or inam estate. In August 1949, the Government notified under that section a number of villages in certain permanently settled estates in the State which were reported to be under-tenure estates within the meaning of section 2, sub-section (13) of the Act. This report was furnished by the Collector of the district to the Board of Revenue, who in turn, sent it on to the Government, and acting on the advice of the Board of Revenue, which acted in turn on the advice of the Collector, the Government notified those villages as under-tenure estates. That is how they were first notified as under-tenure estates. Some of the villages so notified however, were subsequently found to be whole inam villages and not really under-tenure estates. Again, it was on the report of the Collector, who subsequently verified the nature of those villages and reported to the Board of Revenue, who in turn reported to the Government, that the original report of the Collector that those villages were under-tenure estates, was not correct and that they were whole inam villages. So, the Board wrote to the Government that the mistake might be corrected by a notification. Sir, I would like to add for the information of the members of the House that there is a difference in the incidence of compensation between the under-tenure estate and the inam estate and so the correction of the notification is important in that it is going to make some difference in the compensation to be paid to the owners of those villages. That is why the Government feel it necessary to correct the mistake."

MR. CHAIRMAN :—" I thought there was no difference between an inam estate and an under-tenure estate granted before 1802."

THE HON. SRI H. SITARAMA REDDI :—" An under-tenure estate and an inam estate are treated alike, but in the matter of compensation to be paid under the Abolition Act, an under-tenure estate, gets a certain amount of compensation and an inam estate a little more than an under-tenure estate. That is the provision in the Act. That is also very important."

MR. CHAIRMAN :—" My impression is that an under-tenure estate before 1802 is given compensation on the same basis of as an inam estate."

THE HON. SRI H. SITARAMA REDDI :—" May I just draw attention of the hon. Chairman to the chapter dealing with the basic annual sum for inam estates and how to calculate it. That is section 31 of the Abolition Act. So far as under-tenure estates are concerned, the calculation of the basic annual sum is dealt with in section 36."

[17th April 1951]

MR. CHAIRMAN:—"That is on the same basis as inam estates. Section 36 says—

'In the case of an under-tenure estate, the basic annual sum shall, where it has been decided under section 10 that the estate was granted before the date of the permanent or temporary settlement of the principal estate or before the 13th day of July 1802, as the case may be, be computed in accordance with the provisions of sections 31 to 35 both inclusive.'

That is, under-tenures granted before 1802 come in for compensation as inam estates and only those granted after 1802 come in for less compensation."

THE HON. SRI H. SITARAMA REDDI:—"There is a difference also. After this notification, it has to be determined whether those are 1936 inams or pre-1936 inams. What I would like to impress upon this House is that if these estates that have been now notified and a mistake is sought to be corrected are retained as under-tenure estates, there is a chance of their getting less in the sense that some of them may be post-1936 inams. So, it is necessary that the mistake must be corrected. That is apart from the reasons I have given.

"Then, Sir, the hon. Member said that when we have got the power under section 7 of the Abolition Act, why should we come before the Legislature. Sir, errata to the notified list of under-tenure estates were issued from time to time believing that the Government had the necessary power, as was pointed out by the hon. Member, Mr. Bhima Rao. A doubt, however, arose whether the issue of such errata was valid with reference to section 15 of the General Clauses Act. The Advocate-General who was consulted, held that when once the Government appointed a date section 1, sub-section (4), that date should not be varied or cancelled in view of the provisions of section 22 of the Madras General Clauses Act and that because certain power was necessary it was advisable to amend the Act with retrospective effect. The Government therefore accepted the advice of the Advocate-General and decided to amend the Act suitably. The names of such inam villages which have been wrongly notified as under-tenure estates, in respect of which correct information is now available, have been included in the schedule and these are referred to in clause 9 of this Bill. It is possible there may be some other cases of wrong notification and they will also come to the notice of the Government in the future. We have been advised that even then, we have to come before the Legislature to rectify the mistake. We did not stop with this. The question was also looked into by the legal advisers of the Government of India and they also wrote to us saying that when once a notification has been issued under section 1, clause (4), it is necessary, in view of the provisions of the General Clauses Act, to correct the mistake only by bringing in legislation. That is why the Government have now come forward with this legislation.

"Now, Sir, the question has been raised by the hon. Member, Mr. Suryanarayana Rao, whether the Government did not know

17th April 1951] [Sri H. Sitarama Reddi]

the mistake beforehand; when did they discover the mistake; where is the need for clause 6 of the Bill and for trying to upset the decrees of courts. In regard to this question, yesterday also I briefly indicated the need for clause 6 of this legislation. Representation was made by some of the small landholders that due to the delay in the notification of the estates, all their estates were brought to sale by the creditors and that their estates were sold for low sums, because there were not enough people coming forward to buy those estates. In view of the fact that the zamindaris were being abolished, not only were their estates sold for a low sum, even their other private properties also were sold for a low sum. It was therefore thought right that the protection that is now given under section 59, sub-section 2 of the Abolition Act to the estates of the landholders under the Abolition Act, might be extended from the date when the Act came into force, that is from 19th April 1949, up to the date of the notification.

"That was how the original Bill stood. Subsequently, during the Select Committee stage, it was represented that the protection that is sought to be given by this Bill must be extended not only to the date of the notification but to the date on which advance compensation is deposited before the Tribunal under section 54-A. Section 6 embodies this provision and it relates to the protection to be given to the small landholders who have been put to certain trouble for no fault of their own. It is already there in section 59 (2) of the existing Act but it is being extended from 1949 up to the date when the money is deposited. It may be that very few people may have suffered but it is intended that they should be given protection. In giving protection, it has been found that certain decisions of courts have already been given and if the property has been sold for a low sum, which may not be in all cases, it may be set aside. That is why in the other House the Government themselves moved this provision and it has been provided that the court shall not order any such sale to be set aside, unless the court is satisfied that the sale price was unduly low. I may bring to the notice of the hon. Member, Sri Suryanarayana Rao that this is not a new thing and even under the Code of Civil Procedure, there are instances where court sales are set aside. It is nothing new that we have done here. The hon. Member also objected to the use of the word 'shall' and asked how the Legislature can order the court saying that it shall do a certain thing and he expressed a doubt emphatically whether the House has got power to legislate and say what a court shall do. It is nothing new that we are doing and this is just in line with what we have been doing, namely, of legislating and asking the court that it shall or shall not do certain things. Care has been taken to see that the interests of both the creditors and the landholders are protected and there is no harassment either the landholder or of the creditor. This is an important provision about which explanation was sought for by hon. Members and I think, Sir, I have answered to the satisfaction of hon. Members."

12-45
p.m.

[17th April 1951]

MR. CHAIRMAN :—" The question is—
'That the Madras Estates (Abolition and Conversion into Ryotwari) Second Amendment Bill, 1950 (L.A. Bill No. 32 of 1950), as passed by the Assembly be taken into consideration.' "

The motion was carried and the Bill was taken into consideration.

Clauses 2, 3, 4, 5, 6, 7, 8 and 9, the schedule, clause 1 and the preamble were put and carried and were allowed to form part of the Bill.

THE HON. SRI H. SITARAMA REDDI :—" Mr. Chairman, Sir, I move—

'That the Bill be read a third time and passed.' "

MR. CHAIRMAN :—" The question is—
'That the Madras Estates (Abolition and Conversion into Ryotwari) Second Amendment Bill be read a third time and passed.' "

The motion was carried and the Bill was passed.

(2) THE MADRAS VILLAGE PANCHAYATS (AMENDMENT) BILL, 1951
(L.A. BILL NO. 13 OF 1951).

* THE HON. SRI K. CHANDRAMOULI :—" Mr. Chairman, Sir, I move—

'That the Madras Village Panchayats (Amendment) Bill, 1951 (L.A. Bill No. 13 of 1951) as passed by the Assembly and transmitted to the Council be taken into consideration.'

Sir, section 71 of the Madras Village Panchayats Act, 1950, provides that the Government shall set apart every year a sum not less than 12½ per cent of the total land revenue of the State collected during the year and distribute the sum as grant to Class II panchayats for that year. A large number of Class II panchayats is expected to be newly constituted under the provisions of the new Panchayat Act in the course of two years from the date of inception of that Act. Until then it is considered enough if a lesser sum than 12½ per cent of the land revenue is set apart for distribution as Grant to Class II panchayats which are comparatively small in number at present; otherwise if the entire sum of 12½ per cent of the land revenue is distributed to the existing Class II panchayats, they will derive a larger gain than what they would get after all the Class II panchayats come into being and the new Class II panchayats will have cause for grievance in that the existing Class II panchayats have been given more liberal grants.

"It is therefore expedient to amend section 71 so as to permit the Government during a period of two years from the commencement of the Act, to set apart for distribution only such sum as

17th April 1951] [Sri K. Chandramouli]

may be really necessary for the panchayats actually in existence. I may here and now assure the hon. Members of this House that nothing is farther from the intention of Government than to whittle down the grants to panchayats. The underlying idea of the amendment is that the Class II panchayats in existence now and those which will spring up hereafter are treated alike and grants are distributed equitably. The entire 12½ per cent of land revenue will be set apart for distribution to Class II panchayats from 1953-54 onwards.

"A panchayat newly constituted late in a year has not to incur so much expenditure as a panchayat constituted early in the year. The former panchayat cannot therefore be treated on the same footing as the latter. A line has to be drawn between these two panchayats for purposes of eligibility to receive the grant. It is accordingly considered that a Class II panchayat constituted after the 31st December in any financial year should not be entitled to any grant in respect of that year and provision has accordingly been made in the Bill.

"After the passing of the Madras Village Panchayats Act, 1950, this Government have received instructions from the Central Government to provide for the building of a Sinking Fund for payment of compensation to landholders, from the land revenue collected in excess of the peshkash, quit-rent, jodi or other like sum payable to Government in the estates taken over under the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948. In other words, the excess amount will not be taken into account only so long as it is required for meeting the compensation payable to landholders. Opportunity has accordingly been taken to clarify the position in regard to the computing of the total land revenue for purposes of section 71.

"The Bill seeks to achieve the above objects and is non-controversial. I commend it to the unanimous acceptance of the House."

MR. CHAIRMAN :—" Motion moved—

'That the Madras Village Panchayats (Amendment) Bill, 1951 (L.A. Bill No. 13 of 1951), as passed by the Assembly and transmitted to the Council be taken into consideration.' "

* SRI R. SURYANARAYANA RAO :—" Mr. Chairman, Sir, when this Bill came before the House—I am sure it was so in the other House too—this section 71 of the Madras Village Panchayats Act was welcomed because the Government realized what would be the plight of the Class II panchayats and they wanted to go to their assistance by setting apart every year a sum not being less than 12½ per cent of the total land revenue of the State. Always the Legal Department introduces in legislation language such as 'not being less than 12½ per cent . . .'; legal quibbles such as this are introduced to make the ordinary citizen confounded and not able to catch the exact import of the terms used. That apart, Sir, I think the Bill has been notified and is coming into force and all

[Sri R. Suryanarayana Rao] [17th April 1951]

of us who are interested in the growth of panchayats felt happy that such of them that already exist and such of them that will come into existence and may come under the classification of Class II panchayats would get enough funds to carry on the various functions allotted to them under this Act. But suddenly the Government have found out that because some time would be taken by them to bring the Class II panchayats into existence, the setting apart of the 12½ per cent of the land revenue would mean when it is divided between them, that those panchayats that may come into existence would be getting more than what is their due. But we find that the division of the 12½ per cent of the land revenue of the State is done on the population basis and it is not an outright division according to the number of panchayats because the more population there is in a panchayat, the more will be their need. By bringing in this amendment to section 71, the Government have taken upon themselves the power to set apart such sums as they deem fit and it is not governed by any principle as was the case previously when it must be not less than 12½ per cent of the land revenue. It may be, Sir, they may not set apart any sum if they so deem fit or they may just set apart a nominal sum to satisfy section 71, because that is the sum which the Government deem fit to set apart for purposes of the panchayats. If the Hon. Minister had come forward with an amendment saying that in view of the fact that even if the distribution is made on the basis of population, certain panchayats may get more now and may later on get less and therefore, till all the Class II panchayats are brought into existence, we will go on a certain basis, the distribution being purely tentative, I can understand him.

p.m. “ That would have assured the second class panchayats which are in existence or which may come into existence, of what financial help they would get from the Government. Now, Sir, it would be nobody's interest to organize panchayats if no financial help is forthcoming from the Government in the initial stage. It is all now in a nebulous state about the quantum of financial help from the Government.

“ Then, Sir, secondly, there is another provision which the Hon. Minister has introduced in this Bill. It says, if a panchayat comes into existence after the 31st December in a financial year, that panchayat shall not receive any financial help from the State for such year. It is well I draw the attention of hon. Members of this House to this clause. Sir, most of these panchayats are to be organized by Government agencies. For it is the panchayat officers, whom the Hon. Minister for Local Administration is going to appoint, who are to organize these panchayats. Really there will be practically no voluntary formation of panchayats. They would have to be formed under State compulsion. So, there would be some delay in the formation of these panchayats. Suppose, therefore, a panchayat is formed on the first January of any particular year, for the next three months, that panchayat would not get any financial assistance from the Government. Now, Sir, I ask, could not Government have said that such panchayats would

17th April 1951] [Sri R. Suryanarayana Rao]

get financial assistance *pro rata*, according to the period for which they have been in existence. Why should a panchayat which has been in existence for nine months get its full quota of financial assistance, while those formed on 1st January not get any help at all? After all, the funds required by those formed after 31st December in any year will be comparatively small. The need for expenditure does exist in all panchayats, irrespective of the fact whether they exist for one month or two months or three months or for nine months. Like the Hon. Minister himself, hon. Members of this House are anxious that these panchayats should be started under as best auspices as possible, so that they may be worked successfully when they are started for the first time. That being so, it is all the more necessary that they should have all the financial help they require. Those of us who feel that they should be given such financial help do ask for such help only for the period they have been in existence. So I request Government to give them the *pro rata* assistance they would get out of the full quota they would get if they had been in existence for a full year. To deny that is a hardship. So the proviso in the Bill is a retrograde one, and it has been introduced by the Hon. Minister for Local Administration with all his good intentions to promote Panchayat Raj. Now, Sir, what will be the effect of this proviso in the Bill? It means, there will be no intense activity for the formation of panchayats between January and 31st March. Three months is not a small period out of twelve months. As I said, panchayats are to be formed compulsorily under the main Act by the officers of Government. So, naturally, there will be delay in such formation; and added to that, there is this absence of financial help; so, I wonder what rapid progress can be made in the formation of panchayats.

“ Then, Sir, the Hon. Minister explained that in view of the fact that the Government of India insisted that a sinking fund should be created for the purpose of liquidating zamindaris and that so long as compensation remains to be paid, the panchayats constituted in that zamindari area shall not be entitled to any financial assistance. Now, Sir, I ask, 'Is this not discrimination?' Is it the fault of the people that they happen to be in a zamindari area? So, Sir, it is not fair on the part of the Government to treat these second-class panchayats in this manner. We do not know when this compensation will be finally settled. The tribunals have been sitting for the last so many years. Still, even the preliminary issues have not been settled; after that, is to come the question of distribution of compensation, then the quantum of compensation; then, there will be so many suits and there will be so many appeals; now, till all that is settled, the second-class panchayats in the zamindari areas will not receive any financial help. Then, Sir, if 1936-inams also are brought under zamindari areas then, woe be to the panchayats in such areas. It means they will for ever be suffering from financial disadvantage.

“ In making these remarks, I want the Hon. Minister, who is so enthusiastic about Panchayat Raj and whose radio talks we

[Sri R. Suryanarayana Rao] [17th April 1951]

have been listening about the proclamation of Panchayat Raj, to realize that by adopting this proviso, he is practically nullifying the good intentions with which he is prompted to form panchayat. It is not fair that the panchayats which would come into existence hereafter should be discriminated, simply because they happen to be situated in zamindari areas. These are the view points which I wish to bring to the notice of the Hon. Minister. I want him to realize the effect of this piece of legislation. The Father of Village Panchayats is prompted to kill the goose which is to lay golden eggs. In the present Bill he is practically striking the death-knell of the Panchayat Raj, at any rate of those which unfortunately happen to be in the zamindari area! He could have devised some other method to finance the panchayats. I do understand the Government of India imposed on this Government certain conditions, namely, by asking them to create a sinking fund and not to touch it till all the money by way of compensation to zamindars is paid. As I said, he could have devised some other method to finance the panchayats. I do appreciate his difficulty: for section 71 of the Madras Village Panchayats Act, 1950, requires the Government to set apart every year a sum, not less than 12½ per cent of the total land revenue collected in the State during that year. But in computing the total land revenue for the purposes of section 71 the net additional revenue derived from estates taken over under the Zamindari Abolition Act, should not be taken into account, so long as that excess is required for meeting the compensation payable to landholders under that Act."

MR. CHAIRMAN :—"Are you referring to the Explanation?"

* SRI R. SURYANARAYANA RAO :—"No, I am only reading the relevant portion from the Statement of Objects and Reasons."

MR. CHAIRMAN :—"You said about the excess being required for meeting the compensation payable to landholders."

* SRI R. SURYANARAYANA RAO :—"Yes, that is in the last few lines in the Statement of Objects and Reasons. My contention is, the panchayats, under the circumstances mentioned, will not get any financial aid at all."

MR. CHAIRMAN :—"Whatever your contention is, section 71 deals with peshkash and not with land revenue."

* SRI R. SURYANARAYANA RAO :—"In any case the Hon. Minister will not consider me wrong, for these second-class panchayats in zamindari areas will get much less than what they would get if they were outside those areas? That is to say, they would not get 12½ per cent of the land revenue."

MR. CHAIRMAN :—"What has the Hon. Minister to say?"

THE HON. SRI K. CHANDRAMOULI :—"The hon. Member may finish his speech, and then I shall reply."

17th April 1951]

SRI R. SURYANARAYANA RAO :—"Sir, my point is, those second-class panchayats which will be formed in zamindari areas . . ."

MR. CHAIRMAN :—"That is only for a temporary period."

* SRI R. SURYANARAYANA RAO :—"Yes, I admit. But it is only in the beginning that such institutions, when first started, do require assistance. It may be, after full compensation is paid they will be brought into line with the other panchayats in other areas. So, I request him even for this interim period whether he could not devise some other method to pay them out of land revenue collected; because we are all interested in seeing panchayats work successfully. Sir, these are the remarks I have to offer."

* THE HON. SRI K. CHANDRAMOULI :—"Mr. Chairman, Sir, the hon. Member, Sri Suryanarayana Rao has raised two objections to this amendment. One is, some of the panchayats which have to be constituted after 31st December will not get any financial assistance, and hence there would not be any incentive on the part of the departmental officers to organize panchayats, or even if they organize, the panchayats will not evince great interest in working the institution. We are making transitory financial arrangements now and in so doing we frame budgets and then distribute the amounts available. The hon. Member knows, the framing of budget for the next year will be over by the end of December, and that is why we have put 31st December as the final date for any financial assistance. So, if a panchayat was to be created in January, February or March, it would be very difficult to allot any fund to it. So, that is the difficulty of the Government. Then, Sir, as you have rightly stated, this is only a temporary arrangement. It is only for two years. So we have thought fit to compute the number of panchayats up to the 31st December each year and give each panchayat its quota from the pool."

"The second point which the hon. Member raised is that the distribution will not be on the population basis. I do not know wherefrom he got that information. The distribution to panchayats will be on the population basis. We have to constitute a certain number of panchayats. There are only less number of panchayats now. Proportionately we take the money and distribute it to the existing panchayats. Suppose, after all the panchayats are constituted, we have to distribute one crore of rupees. Suppose again there are now only one-fourth of the total number of panchayats to be constituted. We will distribute only Rs. 25 lakhs to the existing panchayats. Out of the pool even to the second-class panchayats in zamindari areas, we give the amount on the population basis. We do not take the excess income from the zamindari areas into account, because it will swell the figure. Because all the panchayats are not existing now, the panchayats in the zamindari area will not suffer unless the Government do not

1-15
p.m.

[Sri K. Chandramouli] [17th April 1951]

pay compensation within these two years. We are not in the meantime going to constitute all the other panchayats. We have only less number of panchayats now, and the money available is more. Therefore, we distribute the money equally among the panchayats in the zamindari and other areas. There is no discrimination between the two areas, i.e., there will be no difference between a panchayat in a zamindari area and a panchayat in a ryotwari area. This point I wish to make quite clear. Every panchayat, whether it is in the zamindari area or in the ryotwari area, will get the same contribution on the basis of population."

MR. CHAIRMAN :—" I suppose the original Act says that even if the village does not give any revenue, 12½ per cent of the revenue of the State will be distributed to all the panchayats on the basis of population. If that is so, what is the necessity for taking into account the revenue of the village? "

* THE HON. SRI K. CHANDRAMOULI :—" We are not taking the excess amount from the zamindari area into account. The amount may exceed. But in distribution, we do not make any distinction between panchayats in zamindari areas and panchayats in other areas."

MR. CHAIRMAN :—" What you say is this. The present land revenue income of the Government of Madras is Rs. 7 crores. You take Rs. 7 crores into account. Out of that 12½ per cent will be distributed to the panchayats. But if you take the income of the zamin villages also, it will become Rs. 8 crores or Rs. 9 crores. You do not want to take that into consideration as long as the Government have not paid the compensation. You want to take into account only the present income of the estates, and 12½ per cent of that amount you want to distribute to all the panchayats, equally."

SRI R. SURYANARAYANA RAO :—" May I have an explanation with regard to the first proviso? Now Rs. 7 crores is the land revenue of this Government, and 12½ per cent of this amount is to be distributed to all the panchayats whether they are in the zamin areas or other areas. This proviso says that for two years more the Government may set apart such sum as they deem fit not being more than twelve and a half per cent."

* THE HON. SRI K. CHANDRAMOULI :—" We would not distribute all the 12½ per cent to all the existing panchayats. Suppose there are now one-fourth of the total number of panchayats. We will distribute Rs. 25 lakhs if the ultimate amount is one crore to all the second-class panchayats according to the population irrespective of whether they are in the zamindari area or ryotwari area."

MR. CHAIRMAN :—" The question is—

'That the Madras Village Panchayats (Amendment) Bill, 1951 (L.A. Bill No. 13 of 1951) (as passed by the Assembly), be taken into consideration.' "

The motion was carried.

17th April 1951]

MR. CHAIRMAN :—" The amendment given notice of by hon. Member Mr. Suryanarayana Rao has been disallowed by His Excellency the Governor."

Clauses 2 and 1, and the preamble were put and carried and formed part of the Bill.

THE HON. SRI K. CHANDRAMOULI :—" Sir, I move—
'That the Bill be read a third time and passed.' "

MR. CHAIRMAN :—" The question is—

'That the Madras Village Panchayats (Amendment) Bill, 1951 (L.A. Bill No. 13 of 1951) (as passed by the Assembly), be read a third time and passed.' "

The motion was carried and the Bill was passed.

MR. CHAIRMAN :—" The House will now rise for lunch and meet at 2-30 p.m."

The House then rose for lunch.

(After lunch—2-30 p.m.)

IV.—MODIFICATIONS TO THE MADRAS PUBLIC SERVICE COMMISSION REGULATIONS, 1950.

* SRI R. SURYANARAYANA RAO :—" Mr. Chairman, Sir, I move—

'That this Council recommends to the Legislative Assembly that the following modifications be made in the Madras Public Service Commission Regulations, 1950, published with G.O. No. 4575, Public (Services), dated 25th December 1950, and laid on the table of the Council on 17th March 1951, namely :—

- (1) In part III, 'Matters in respect of which it shall not be necessary for the Commission to be consulted', Regulations 16 (c), (e), (f) and (g), 18 (2) (a), (b), (g), (i) and 19 be omitted.
- (2) In annexure I 'A. State Services' items (1), (2), (5), (6), (19), (20) and (22) be omitted.
- (3) In annexure I 'B. Subordinate Services', paragraph 3 in item (a) add 'Junior Deputy Inspectors of Schools' and in item (j) add 'Senior Inspectors', and add the following new items after (r) :—
 - (s) Supervisors in the Madras Public Works and Electrical Subordinate Service;
 - (t) Sub-Inspectors and Sergeants in the Madras Police Subordinate Service;
 - (u) District Panchayat Officers, Assistant and Deputy Panchayat Officers and Executive Officers of Panchayats;
 - (v) Commissioners of municipalities.

[Sri R. Suryanarayana Rao] [17th April 1951]

"Sir, we are all glad that the Constitution of India enables us to exercise this privilege of going through the Public Service Commission Regulations placed on the table of the House and of suggesting such modifications, by way of repeal or amendment, as the House may deem fit to recommend. But, Sir, though the Constitution of India came into operation in January 1950, the Madras Public Service Commission Regulations have been framed on the 26th December 1950 and placed on the table of this House on the 17th March 1951. As His Excellency the Governor is empowered under the Constitution to frame those Regulations, they have had the effect of law and during these three months, the Houses of the Legislature have not had an opportunity of placing their points of view on such of the Regulations as they consider objectionable or which they consider need amendment. I do not know why the Government should have taken so much time to place these Regulations on the table of the House whereas the Legislature met in January and February and we have now come to the last or last but one day before prorogation. I am not able to understand, Sir, why this extraordinary delay should have taken place in a matter of such vital importance as this.

"Then, Sir, the Regulations that have been framed now take the place of the Regulations framed in 1937 and amended from time to time. During this period various changes have been made to the original Regulations and they are included in the Regulations issued on the 26th December 1950. If the hon. Members will consult the Madras Service Manual, Volume I, they will see the number of amendments that have been issued since 1937, and if they compare the amended Regulations with the Regulations now placed on the table of the House, they will find that some fundamental changes have been effected since 1937 which have been included in the present Regulations. As required under the law, I have given notice of amendments to such Regulations which I consider may be repealed or amended suitably. Now, let me take the amendments to part III 'Matters in respect of which it shall not be necessary for the Commission to be consulted'. I would like to draw the attention of the Hon. Minister to Regulation 16 (c) which reads as follows:—

'In regard to the suitability of candidates for promotion within the same service or for transfer from one subordinate service to another such service.'

Sir, this Service Manual runs into volumes and it is very difficult to find out what Regulations apply to a particular case even for the hon. Members who sit on the Treasury Benches who may be in intimate touch with these Regulations, unless they are pointed out by the office. I think when a person has been recruited by the Public Service Commission and allotted to a particular category of service, his transfer from that category to another category has to be made with the permission of the Public Service Commission. Suppose an upper division clerk has been recruited by the Public Service Commission to the Madras Forest Service and he wishes to get himself transferred to the Madras Revenue Subordinate

17th April 1951] [Sri R. Suryanarayana Rao]

Service. The transfer cannot be effected except with the permission of the Public Service Commission. Sir, the Public Service Commission recruits a certain quota for each service on the representations of the Heads of Departments and any transfer may upset the set up or strength of that service. That is the main idea behind this rule. If a transfer has to be made, that should be mutual transfer and that too has to be made with the permission of the Commission. Now, as regards the suitability of candidates for promotion within the same service let me take, for instance, the Co-operative Service. Suppose a Co-operative Sub-Registrar has to be promoted as the Deputy Registrar. Generally the rule that has been observed for a number of years is that the suitability of the candidate for promotion is decided by the Public Service Commission after going through the record of the candidate. But under the present Regulation, it looks that it is not the Public Service Commission but the Head of the Department or the Government on the recommendation of the Head of the Department that decide the question.

"Then, Sir, I come to Regulation 16 (e) which runs as follows:—

'In regard to the suitability of a candidate who was selected by the Commission or by any other competent authority for appointment to a service, or if such service consists of more than one class or category, to a class or category therein, for appointment, in special circumstances which shall be recorded in writing, to any other service or class or category therein, as the case may be, for which the qualifications prescribed in the statutory rules are identical with those prescribed for the service or class or category for which the candidate was selected by the Commission or by any other competent authority.'

As I have already said, when a person has been recruited by the Public Service Commission to a particular category of service, if the Head of a Department or the Government want to transfer him to another service without the permission of the Public Service Commission, it will upset the quota prescribed for that service.

"Then, I come to Regulation 16 (f) which runs as follows:—

'In regard to the re-employment in any service of a person who has retired on a civil pension or gratuity or who, while in service, was a subscriber to a Contributory Provident Fund.'

Sir, as you are aware, questions have been put in this House regarding re-employment or extension of service. A person should be re-employed only if the Service Commission has tried to recruit a competent person but has not been able to select one, with the necessary qualifications and if the work cannot be carried on without the re-employment of the person concerned. I feel it is the Service Commission which is entrusted with the task of recruiting the personnel required for the various services that is most competent to say whether in view of the fact that they are not able to recruit a person with the requisite qualifications the re-employment of the person whom the Government want to appoint can be made. In the interest of the services, I feel it is the Public Service Commission that should be the authority to be consulted in these matters.

"In regard to Regulation 16 (g), i.e., employment in any service or post of a person who is a member of an All-India Service, I would like to draw the attention of the hon. Members

[Sri R. Suryanarayana Rao] [17th April 1951]

to the series of questions I put regarding reservation of certain posts of Heads of Departments for the All-India Service people. It looks as though this Regulation has been put in order to cover such cases of reservation. An All-India Service man, in the opinion of the Government, is considered fit to occupy any place, to be the Head of any Department, whether it is technical or non-technical, whether the post is administrative or executive. That seems to be the opinion of the Government and so they want to take this matter from the purview of the Public Service Commission. Regulation 18 (I) says—

‘It shall not be necessary for the Commission to be consulted on any disciplinary matter affecting a person serving in connexion with the affairs of the State, except—

(a) where the State Government propose to pass an order on an appeal or revision . . .’

If it is a case of an original order and not an appeal or revision, it means the Public Service Commission need not be consulted. I interpret it that way. The whole language contains negatives and double negatives. I think in all matters where punishment is to be accorded, whether it is an original order or an appeal, if the original order is passed on the recommendation of the Commission, the need for an appeal will not exist. Only mercy petitions and memorials will be submitted to the Government which could be disposed of by the Government taking into consideration the hardships that may be caused to the person concerned. I therefore feel that in such matters the Public Service Commission should be consulted. Regulation 18 (1) (b) says—

‘(b) where the State Government propose to pass an original order imposing any of the following penalties, namely :—

(i) reduction to a lower rank in the seniority list or to a lower post or time-scale whether in the same service or in another service, State or Subordinate or to a lower stage in a time-scale ;’

These are very serious punishments to be awarded to the servants of the Government. All that I say is that the Public Service Commission which is mainly intended to safeguard the interests of the services must be consulted in these matters. The Commission is supposed to be appointed by His Excellency the Governor and it is supposed to be free from any party influences in the matter of appointments. That is why a special provision has been made in the Constitution with regard to the constitution of this Commission. Such a body is more competent to advise the Government. So, the Government must consult this body, viz., the Public Service Commission in the matter of award of punishments to the Government servants.

“ According to Regulation 18 (2) (g), it is not necessary for the State Government to consult the Commission where the State Government pass orders on the advice of the Tribunal for Disciplinary Proceedings. It is true the Government have constituted a Tribunal for Disciplinary Proceedings which consists of Judicial Officers who hold an enquiry. Regulations have been framed in this connexion and they have been suitably amended on account of some representations we made by which the accused officer is enabled to engage a lawyer, have the witnesses cross-examined

17th April 1951] [Sri R. Suryanarayana Rao]

and put in his defence. But, the Tribunal can only make recommendations to the Government. What I would suggest is this. Till now, were not the proceedings of the Tribunal sent to the Public Service Commission for their remarks? I know of cases where the Government have sent the proceedings of the Tribunal to the Commission. If this Hon. Minister refers to his Department, he will be told that it was a privilege that was accorded to all servants of the State by which their cases were sent to the Commission with the recommendations of the Tribunal. In this manner, the Government obtained the advice of the Service Commission in respect of all cases, before they passed final orders. I would like that this system of sending the proceedings of the Tribunal also to the Service Commission for their advice should be continued.

“ I will now pass on to Regulation 19, which says—

‘It shall not be necessary for the Commission to be consulted on any memorial or petition relating to any disciplinary matter affecting a person serving in connexion with the affairs of the State.’

It may be all right so far. I would have appreciated it very much if they had left the matter at that. But the Regulation proceeds,

‘where the State Government propose to pass orders rejecting such memorial or petition.’

Sir, how can the State Government come to a decision whether they should reject or accept the petition or memorial unless they consider all aspects of the question? The last portion is very unhappy. If they simply say that in all cases of memorials and petitions the Service Commission need not be consulted, that is a different matter altogether on which I can speak a great deal. I want to urge that the Service Commission should be consulted in all matters, when memorials or petitions are submitted, whether the Government propose to reject them or accept them. After all, it is a matter of consultation. When the Government deal with the infliction of punishment on the officers—I do not say that in all cases they do not deserve such punishment and it may be that some may deserve the punishment—every opportunity should be given to the Commission which is not connected with the day to day administration of the Government to look into the records of the cases as it is possible for the Commission to view the cases with equanimity and without prejudice. I am sure the Hon. Finance Minister during the period in which he has been in office must have known of hundreds of cases where the Commission agreed with the Government or recommended to the Government what punishments should be given with which the Government might have agreed. Or, the Service Commission might have given another point of view with which the Government might have agreed and let off the person concerned unpunished. I am of the view that this prior consultation is in no way derogatory to the sense of self-respect of any Government. After all it is mere consultation and not final decision. We are now an independent Nation. We want every officer of our State—big or small—to give his very best to the State. But, we must make his position as secure as possible without being subjected

[Sri R. Suryanarayana Rao] [17th April 1951]

to the whims and fancies of the higher officers or the Heads of Departments or even the Hon. Ministers. The officers should be given every opportunity to vindicate their position before they are punished. I must confess that these rules fail to give that sense of security. I know of several officers who felt that they had no case to make out when once they learnt that the Service Commission had been consulted in the matter and the Commission had come to a certain conclusion in that particular matter. The Government can, out of mercy or clemency, grant the person concerned some gratuity or some small pension. But, so far as the verdict of the Commission is concerned, it is greatly respected. Whatever the Hon. Minister might have said in the other House, the Members of the Service Commission are least liable to any influence. They are men of honour and integrity. Whoever might have occupied the position of Membership in the Commission till now, the public have great faith, or I should even say that they have greater faith in them than in the Government if the appointments were made directly by the Government. Because, personalities do not count with the Commission. The Commission have certain principles on which they test the capacity of the candidates and they make their recommendations. The decision of the Commission is highly respected. Very many friends come and worry us to speak to someone or other about appointments. This is the common experience of the Members of the Assembly and Council. But I may say that none dare ask us to recommend to the Commission. Because, the public know that it is out of the question. In this connexion, I am reminded of an interesting incident that took place a few years ago. When Sir John Hall was the Chairman of the Commission, a candidate tried to influence Sir John Hall himself. Sir John went to the meeting of the Selection Committee and told his colleagues that so and so came to see him in connexion with a candidate who was an applicant for a particular post, as that candidate's father was known to him. He further told his colleagues that the application of that candidate need not be considered at all. The mere visit of a gentleman who took advantage of a little acquaintance with the Chairman of the Commission led to that unfortunate result. Had it not been for this attempt to influence the Chairman, the boy might have got the appointment on his own merits."

THE HON. SRI B. GOPALA REDDI:—"A vicarious punishment, is it?"

SRI R. SURYANARAYANA RAO:—"Yes, unfortunately, the overzealous enthusiasm of the parent of the boy brought this vicarious punishment on the innocent boy. I can quote instances where the decision of the Service Commission is highly respected. Wherever the facts of the case are genuine, the verdict of the Commission could be taken for granted. All that we ask is that the Commission should be consulted. The Government are the final authority in all matters, and all orders are issued in the name of His Excellency the Governor, whether it is punishment or

17th April 1951] [Sri R. Suryanarayana Rao]

whether it is any penalty; we want that even in regard to memorials and petitions, the Commission should be consulted and its views must be obtained. This practice was in force before. It is much more necessary now that under the democratic set-up an independent body should be consulted in all such matters where the interests of the Services are concerned. We want them to serve the State faithfully. So we must guarantee to them security of tenure of office. Surely, the Government do not want to punish them unnecessarily. While it is so, I want to repeat that the Service Commission must be consulted in respect of the punishments to be awarded to the servants of the Government.

"I would like to draw the attention of the hon. Members to the Annexures. Annexure I relates to posts in respect of which it shall not be necessary for the Commission to be consulted in the matter of Recruitment, Appointment, Promotion and Transfer.

"What is the need to exclude so many posts from the purview of the Public Service Commission? There are certain temporary posts which the Government have created and to which some persons have been appointed on a contract basis. Even here, though they are entertained on contract, I would like an independent body like the Public Service Commission to advise the Government in the matter of choice of candidates. It would be far better because an officer of the Government—the Head of the Department concerned—always sits along with the members of the Commission. The Members of the Commission do not exercise their powers without listening to the views of the Head of the Department present. They take his advice, though he is not entitled to a vote now under the new Regulations. He is there to guide the members, to tell them what the requirements of the Department are and what the attainments of the candidates should be. Sir, a large number of posts have been excluded. I shall take up first item 1, viz., Administrator-General and Official Trustee and Deputy Administrator-General and Official Trustee. I may be told that these appointments are made by the High Court or made by the Government on the recommendation of the High Court. Then comes item 2, Law Officers in the City and mufassal. I do not know who come under the category of law officers. Is it that the Public Prosecutor, the Crown Prosecutor and the State Counsel come under this category? I am not able to find out this either from the new or from the old Regulations. I am not so much well versed in the subject as to find out who the law officers are.

"I shall then take up item 5, viz., posts included in the Madras Port Service. I thought that Port Service was a Central subject and I do not know how it has found a place here. If it is meant 'port officers in places like Mangalore and Kozhikode', then, I ask why they should not be recruited by the Public Service Commission. There will be some person well versed in port administration sitting along with the members of the Commission when selection is made. He will guide them in their work. Why should this be in the hands of the Government while there is an independent body for the purpose?

[Sri R. Suryanarayana Rao] [17th April 1951]

"Coming to item 6, we find the post of Secretary to Government, Legal Department and Remembrancer of Legal Affairs. I think this appointment is made by promotion of incumbents in lower posts in the Legal Department or by direct recruitment from among persons in the Judicial Service. There is nothing wrong here again, Sir, in consulting the Public Service Commission while making the appointment. After all, the Government are the deciding authority; they are not bound to accept the advice of the Commission. Why not they have the views of an independent body on paper at least so that they may not fall into errors?"

"Then, Sir, items 19 and 20 . . ."

THE HON. SRI B. GOPALA REDDI:—"What about item 7?"

SRI R. SURYANARAYANA RAO:—"I do not want to deal with it."

THE HON. SRI K. MADHAVA MENON:—"Be consistent."

* SRI R. SURYANARAYANA RAO:—"Sir, it deals with the appointment of Sheriff of Madras. This is said to be done by the Governor. This morning an amendment of mine was rejected because His Excellency had disallowed it. I cannot raise a discussion on it because we respect the Constitution just as much as the Members on the Treasury Benches do."

"Coming to item 19, appointment of officers in the Commercial Tax Department, I would like to point out that the Commercial Tax Department has become a very important one. In fact, I would like the emoluments of the Members of the staff of this Department—including those in Subordinate Services—to be increased so that they may discharge their important functions as efficiently as the Income-tax Department does so far as the Central revenues are concerned."

"Item 20 deals with District Magistrates in the Madras Criminal Judicial Service and item 22 deals with the Under Secretary to Government in the Legal Department in the Madras General Service. As regards item 22, I do not know why the Under Secretary to the Legal Department alone has been excluded from the purview of the Commission. There are Under Secretaries appointed by the Government to other Departments. Such being the case, I do not know how the post of Under Secretary to Legal Department alone finds a place here."

"Under Subordinate Services in Annexure I-B, paragraph 3, it is stated that recruitment will not be made by the Commission to non-gazetted posts 'other than those included in the Madras Ministerial Service except the following.' They could have said, 'the following are excluded' as they have done in items (1) and (2). In the previous list I asked for omission of certain posts. In this list, I want some more additions. One of the additions is the post of Junior Deputy Inspector of Schools. I think this question was raised in the other House also. While I am not one of those who think that the Junior Deputy Inspectors of Schools should not be recruited from among the secondary grade

17th April 1951] [Sri R. Suryanarayana Rao]

teachers who are competent to serve as such, I would like them to retire not as Junior Deputy Inspectors. They must look forward to some promotion after a period of service. If in the initial stage, the recruitment is done by the Public Service Commission—that is, to the post of Junior Deputy Inspector—later on his promotion to the post of Senior Deputy Inspector will be made by the Head of the Department. I would like to have the initial recruitment made by the Public Service Commission rather than by the Director of Public Instruction so that there may be some chance of their being promoted to the post of the Senior Deputy Inspector."

"About Senior Inspectors in the Co-operative Department Sir, it is stated in the Note under item (j) that the special selection of Senior Inspectors in 1948 and 1949 was made by the Commission. When such a thing could happen on a previous occasion, why should not the Commission be entrusted with this work now and in future? Why should these posts be taken away now from its purview? What is the purpose? What has happened now for the Government to change their view? Are they going to stop direct recruitment altogether? If so, let them say so."

"I next come to the post of Supervisors in the Madras Public Works and Electrical Subordinate Services. It is a well-known fact that even B.E.'s are recruited as supervisors and they enter service because in course of time they hope to go to higher posts. Therefore, why should not the initial recruitment of supervisors be done by the Madras Public Service Commission? What is happening now is that the whole thing is left to the Head of the Department. I know, Sir, recently the Public Works Department advertised vacancies and invited applications for the posts of supervisors. A year or two ago, it was the Public Service Commission that recruited supervisors. Why should the Government go in for a change now? What is the purpose?"

"Coming to Sub-Inspectors and Sergeants in the Madras Police Subordinate Service, I know that their recruitment and even punishment are completely in the hands of the Inspector-General of Police. If we want a better type of people to enter the Police Service, men with better qualifications and better character, the recruitment should be made by an independent body like the Commission. After all, there is the Inspector-General of Police who sits along with the Members of the Commission. He is there to guide them. His views are entitled to every consideration. The Members are not so cussed as to defy the wishes of the Head of the Department who has come to assist them and to recruit as they like."

"I next come to the vexed question of District Panchayat Officers, Assistant and Deputy Panchayat Officers and Executive Officers of Panchayats. The Hon. Gentleman, the Minister for Local Administration is against any interference from anybody in the matter of recruitment to posts in his Department. I have brought this to the notice of Government on the floor of this House many times and he has also read out a long letter once

[Sri R. Suryanarayana Rao] [17th April 1951]

written by the Public Service Commission that it cannot undertake this work. Yes, Sir, it does not want to undertake this work because the Government do not strengthen it. Strengthen it; give it more powers and then we will see. The fact of the matter is that the Government are to blame and not the Commission. It is there to assist the Government. It wants to be strengthened in order that it may be able to discharge its duty efficiently. We have a number of complaints in regard to appointments, promotions and transfers made in the Local Administration Department. They are innumerable. It may be that no particular reason can be assigned for the promotion of a person. All on a sudden, a sanitary inspector in a municipality becomes a Municipal Commissioner. Could such an appointment have been possible, if the Commission had made the recruitment? It would have laid down certain conditions, certain qualifications, etc. Why do you make such appointments and become unpopular? You cannot become popular by making such appointments. Of course, you may have good reasons to appoint one and reject other applications. But what is the harm in asking the Commission to advise you? Let the Commission give a list of persons and let the Government choose whomsoever they like. After all such a thing obtains in respect of some Executive posts. The Commission sends a list to the Government. Sometimes the Government do not accept the recommendations of the Commission. If we read the Administration Reports of the Madras Public Service Commission since its inception, we will see that it has a number of complaints to make against the Government. This had happened even during the pre-independence days. That is because its recommendations are not accepted in certain cases. That apart, Sir, on the whole the recommendations of the Public Service Commission have had a very desirable effect. I feel it will be in the interests of a democratic Government if the Public Service Commission is given authority to look after initial recruitment as it is not susceptible to influence and as it will promote efficiency, security of service, etc.

3-15
p.m.

"We are making these suggestions not because a particular Minister is in charge of a particular portfolio but in the general interest of the State, whatever might be the complexion of Members sitting on the Treasury Benches. We want any Government that comes into office to be, like Caesar's wife, above suspicion. That is not possible unless you give up the idea of having as much patronage as possible in your hands. You have enough work to do, to lay down policies, carry out the policies and to get work done by your officers. If an officer has not done his work properly will it be possible for the Public Service Commission to say that the officer has done his work properly? If you want to insist on his dismissal will they differ from your view? After all it is only consultation. The records are sent to the Commission and the Commission is consulted as to the punishment to be given to the officer. If the Commission advises the Government that the officer should be dismissed, it is accepted. In the past you followed this procedure. Why is it that you are giving up these canons of

17th April 1951] [Sri R. Suryanarayana Rao]

administration and unnecessarily getting into trouble by undertaking to do things which will not redound to your credit? However good your intentions may be, however good the results may be, you are getting more odium than praise. As the hon. Member Dr. Lakshmanaswami Mudaliyar quoted the late Raja of Panagal some time ago, for every appointment that you make you make ten enemies and sometimes even a hundred."

THE HON. SRI B. GOPALA REDDI:—"And a doubtful friend."

SRI R. SURYANARAYANA RAO:—"Yes, and a doubtful friend who would look to somebody else for further promotion."

MR. CHAIRMAN:—"No. He looks for something else in addition."

SRI R. SURYANARAYANA RAO:—"Therefore my object in making these observations is to bring to the notice of the Government that the Regulations as they are framed are not consistent with the new spirit that should pervade in the administration. I would like in the interests of the administration, whatever may be the complexion of the Government in power, the tendency to keep certain posts in the hands of Government should be given up. They should be entrusted to an outside body which is there and which has been created for the purpose of advising the Government. With these few words . . ."

THE HON. SRI B. GOPALA REDDI:—"Few words!" (Laughter.)

* SRI R. SURYANARAYANA RAO:—"It is an inexhaustible subject. Every clause requires some amendment. The hon. Gentleman Sri Gopala Reddi himself might not have noticed till now some of the things I have pointed out. I know friends who have suffered at his hands but he has done it after consulting the Public Service Commission. I told them it was no use putting a memorial or a petition to anybody."

"You may remember, Sir, once I put a question in this House regarding memorials. Under the old Government of India Act, memorials were submitted to His Excellency the Governor. After Independence His Excellency does not come into the picture at all. Memorials submitted by any officer affected is disposed of by the Hon. Chief Minister. This information was given in answer to a question put on the floor of this House. I suggested that a Committee of the Cabinet at least must consider appeals from officers against punishments accorded to them. The Hon. the Leader of the House, Dr. Rajan replied that the Government did not think it was necessary to do so. When I asked him: 'What about matters decided by the Chief Minister himself', the answer was: 'He would sit in a reviewing capacity and review the orders'. These answers will be found in the Council proceedings. Therefore it is all the more necessary that

[Sri R. Suryanarayana Rao] [17th April 1951]

the Public Service Commission should be strengthened and their advice sought on all matters. It is safe as the injustice that might be inadvertently done might be avoided."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second the amendment."

MR. CHAIRMAN :—" Motion moved—

' That this Council recommends to the Legislative Assembly that the following modifications be made in the Madras Public Service Commission Regulations, 1950, published with G.O. No. 4575, Public (Services), dated 25th December 1950, and laid on the table of the Council on 17th March 1951, namely :—

(1) In part III, ' Matters in respect of which it shall not be necessary for the Commission to be consulted ', Regulations 16 (c), (e), (f) and (g), 18 (2), (a), (b), (g), (i) and 19 be omitted.

(2) In annexure I ' A. State Services ' items (1), (2), (5), (6), (19), (20) and (22) be omitted.

(3) In annexure I ' B. Subordinate Services ', paragraph 3 in item (a) add ' Junior Deputy Inspectors of Schools ' and in item (i) add ' Senior Inspectors ', and add the following new items after (r) :—

(s) Supervisors in the Madras Public Works and Electrical Subordinate Service;

(t) Sub-Inspectors and Sergeants in the Madras Police Subordinate Service;

(u) District Panchayat Officers, Assistant and Deputy Panchayat Officers and Executive Officers of Panchayats;

(v) Commissioners of municipalities.' "

JANAB ABDUL LATIF FAROOKHI :—" Sir, I beg to move—

' In item No. 3, add the following at the end :—

(w) Regional Transport Authority;

(x) Motor Vehicles Inspectors.' "

THE HON. SRI B. GOPALA REDDI :—" Is it ' authority ' or ' officer '."

JANAB ABDUL LATIF FAROOKHI :—" It should be ' officer ' and not ' authority '."

MR. CHAIRMAN :—" You want it to be included? "

JANAB ABDUL LATIF FAROOKHI :—" Yes, Sir, including the additions suggested by the hon. Member Sri R. Suryanarayana Rao. He has made an elaborate speech and made the position clear. I need not therefore speak on the subject. I only move the amendment."

DR. SYED TAJUDDIN :—" I second the amendment, Sir."

17th April 1951]

MR. CHAIRMAN :—" Amendment moved—

' In item No. 3, add the following at the end :—

(w) Regional Transport Authority;

(x) Motor Vehicles Inspectors.' "

THE HON. SRI B. GOPALA REDDI :—" Sir, for the first time we are discussing the Regulations made under Article 319 of the Constitution of India. Previously the Commission was acting under the Regulations issued by the Government but they were not subjected to any discussion in the Legislature. But the new Constitution empowers any Member of this House to move any amendment to the Regulations made and on such amendment it shall be competent for the Legislature to discuss and vote upon the amendments. That way it is a great privilege given to the Legislature and whenever Government makes any amendment to the Regulations they must be laid on the table of the House and if any Member wants he can raise a debate on these matters.

" I am very glad, Sir, that hon. Member Sri Suryanarayana Rao wants the Government to consult the Public Service Commission on all matters whether on initial recruitment or promotion or perhaps confirmation and even transfer from one subordinate service to another. I am again glad to note that he wants the dignity and prestige of the Public Service Commission to be maintained and patronage or favouritism need not be exercised by Government, I mean, that all these appointments need not be made by Government or by the Heads of Departments lest they should be charged with favouritism, nepotism, etc. I am second to none in my esteem for the Public Service Commission. After all it is a body created by the Constitution for a specific purpose and unless everybody in this House and also the Government try to maintain that supremacy of the Commission I mean of course along with judicial courts, then we will not be doing justice to the Constitution we have framed. Having created an authority, it is no use undermining its authority and its prestige. It is right that they must be given all possible powers so that they may discharge their functions in an open and impartial manner. There is no dispute about that position. But that very Constitution which has created the Public Service Commission has given powers to the Governments that in certain matters they need not consult the Public Service Commission. Proviso to Clause (3) (e) of Article 320 says : ' Provided that the President as respects the All-India Services and also as respects other services and posts in connexion with the affairs of the Union, and the Governor or Rajpramukh, as the case may be, as respect other services and posts in connexion with the affairs of a State, may make regulations specifying the matters in which either generally or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted.' Therefore the Constitution itself contemplates that in certain matters the State Government must

[Sri B. Gopala Reddi] [17th April 1951]

be able to act on its own, without going through the process of consulting the Commission. If we have done anything it is under this proviso that we are not consulting the Commission. It is not as though we are trying to usurp the powers of the Public Service Commission. We are acting under the Constitution because long administrative experience demands that. If a lower division clerk in the Registration Department is not up to the mark then his immediate superior should be able to terminate his probation. It is no use going to the Public Service Commission and saying: 'You have posted a man to my office, I find him absolutely incompetent for one reason or another and therefore I am terminating his service or probation.' Even if they were to be consulted, the Commission can act only on the report of the immediate superior officer. In certain matters certainly the Public Service Commission cannot be consulted by the Head of the Department. He should be given power to decide whether the subordinate should be confirmed or the completion of probation declared or not or whether his probation should be terminated. Is it possible to consult the Commission on all the matters that come up before the Government, on all the memorials sent to Government—they are numerable; when a subordinate is dismissed or suspended he does not keep quiet but becomes a patron of the Postal Department and goes on sending memorials. After all in the Registration Department, the District Registrar is the appointing authority and when a punishment is given by him, the subordinate has a right of appeal to the Inspector-General of Registration and the Inspector-General of Registration disposes of the appeal on merits. But according to the hon. Gentleman Sri Suryanarayana Rao on every memorial the Government ought to consult the Public Service Commission. Usually in the case of memorials, where it is considered that the memorial should be rejected we do not consult the Public Service Commission but if it is proposed to set aside the punishment of the Head of the Government the Commission is consulted. After all the Head of the Department must have some prestige and his view must be considered.

3-30 p.m. "Therefore we cannot be allowing every lower division clerk or peon to be sending memorials. After the Department has considered the case and rejected it, what is the use of going on sending memorials to the Government? If according to hon. Member Mr. Suryanarayana Rao every time we have to consult the Public Service Commission, three members won't suffice and we should have at least 50 Members. If all the cases of petty punishments, promotions and transfers from one subordinate service to another, are to be referred to the Public Service Commission, it will be impossible for the Public Service Commission to do any other work. Therefore, Sir, let not hon. Member Mr. Suryanarayana Rao go with the impression that the Heads of Departments are subject to political influences. After all, he must expect, not merely the Members of the Public Service Commission but every Head of Department every Secretary and every Minister to act in an impartial manner. Ministers may come and

[17th April 1951] [Sri B. Gopala Reddi]

go. At least the Heads of Departments and the Secretaries to Government are permanent people and we must all expect them to act in an impartial manner. Unless we create that stability and security to the heads of departments that their judgment in regard to a man's ability, etc., is likely to be considered, certainly Government cannot function and the heads of departments would not be able to function properly. If every little arrangement that has to be made by the head of a department or a District Collector is to be done in consultation with the Public Service Commission, then administration becomes impossible. After all, the Government has to function and it has to carry on its duties and responsibilities and we cannot be consulting at every stage the Public Service Commission. If the initial direct recruitment has to be done by the Public Service Commission, I have no quarrel. If the Regional Transport Officers, Junior Deputy Inspectors of Schools, Supervisors in the Public Works Department, etc., must be recruited by the Public Service Commission, I agree; and the whole position will be examined *de novo* as I have said in the other House. After all, we have not done anything new. We have simply copied from the standing regulations and we have laid them on the table of the House in accordance with the provisions of the Constitution. In view of the criticisms made just now and in view of the experience we have gained, certainly we shall go into the question again and see whether any more could be added to the list of initial appointments which the Public Service Commission should make. That can be done and I have absolutely no doubt in the matter. But, in regard to other matters, certainly the Government must act in an impartial manner and we do expect our heads of departments and secretaries to function in an impartial manner.

"Sir, hon. Member Mr. Suryanarayana Rao raised the point to delete Regulation 16 (c) which says: 'In regard to the suitability of candidates for promotion within the same service or for transfer from one subordinate service to another such service'. Sir, when an officer is promoted from non-gazetted to gazetted rank, invariably the Public Service Commission is consulted. Even in the case of the Police department where a Circle Inspector has to be promoted as Deputy Superintendent of Police, it is the Public Service Commission that goes into the records and says whether the candidate could be promoted to the gazetted rank or not. That is invariably done. But, after the initial recruitment is over, for instance, when an upper division clerk has to be promoted as Superintendent in the Secretariat, I do not think that it is necessary for the Public Service Commission to be consulted. But, if a superintendent has to be promoted as Assistant Secretary, then the Public Service Commission will be consulted, because it is a promotion from non-gazetted to gazetted rank. But, where a lower division clerk has to be promoted as upper division clerk or upper division clerk as superintendent, then the Public Service Commission need not be consulted. But, in the case of a Revenue Inspector in the Revenue department being transferred

[Sri B. Gopala Reddi] [17th April 1951]

as Assistant Commercial Tax Officer in the Commercial Tax Department, a transfer from one subordinate service to another, we thought that the Public Service Commission need not be consulted as the initial recruitment has been made by the Public Service Commission. If hon. Member Mr. Suryanarayana Rao wants that such cases also should be referred to the Public Service Commission, their work will be enormous and as I have already said, three members won't suffice and we may require about fifty members.

"Sir, in regard to re-employment of retired officers, hon. Member Mr. Suryanarayana Rao wants us to consult the Public Service Commission. As a general policy, we are not re-employing retired people. Re-employment is done by the Finance Department and not by the administrative department, because it affects pension, etc. Sometimes, we call for a medical certificate that the man is physically fit to be in service even though he is 55 years old. Suppose we want to retain a minor irrigation overseer in Tirunelveli district—just now there is a dearth of irrigation overseers, the District Collector looks into the matter and if he is satisfied, he will recommend the case to the Finance Department and the Finance Department in consultation with the administrative department passes the re-employment order. The order is issued in the Finance Department. If every case of re-employment of retired persons has to be referred to the Public Service Commission, say a teacher, overseer and a surveyor who have some technical qualifications and who are just now in short supply when we want many more overseers and surveyors, it will be impossible for us to consult the Public Service Commission whenever we want to give an extension of one or two years. Hon. Member Mr. Suryanarayana Rao is very fond of some Educational Officers being re-employed. It is a matter for the head of the department to suggest and ultimately it has to be examined by the Finance Department whether a particular officer should be re-employed or not. I know some cases where the heads of departments recommended the re-employment and the Finance Department rejected their recommendations. Therefore, Sir, I do not think that any useful purpose will be served by consulting the Public Service Commission in the case of re-employing retired persons.

"With regard to tribunals, Sir, they consist of two retired District Judges. It is on the recommendation of the Rajamannar Committee that the Departmental Enquiry Tribunal was set up. After all, any tribunal must have some dignity of its own and we thought that any finding of the tribunal need not be subjected to the scrutiny of the Public Service Commission. It is not also fair for the tribunal. The members are judicial officers and we thought that their findings should not be subjected to the scrutiny of the Public Service Commission. Even though their findings are recommendatory, invariably we accept their recommendations. Constitutionally speaking, even the decisions of the Public Service Commission are recommendatory and the ultimate responsibility

17th April 1951] [Sri B. Gopala Reddi]

rests with the Government. That does not mean that the Government will over-ride their decisions. Whatever be the findings of the tribunal, Government alone is competent to pass orders. No head of department can go to the tribunal with any case and the tribunal cannot take up the matter. The head of department must first recommend the case for enquiry to the Government and the Government alone can refer the matter to the tribunal. Only then the tribunal examines the case and gives a finding. Therefore, Sir, there is no need for the tribunal to be subordinated to the Public Service Commission.

"Then, Sir, the Port Trusts are Statutory bodies. They have their own finances and they do not generally come to Government. They are administered under Statutory Regulations. They are like our Universities and Corporations and they manage their own affairs. Therefore, as it is a technical matter, we thought that the recruitment to that service need not be referred to the Public Service Commission. The Port Trusts are therefore outside the purview of the Public Service Commission.

"Then, hon. Member Mr. Suryanarayana Rao wants that the recruitment to the Police Service also should be done by the Public Service Commission. After all, it is not a question of competitive examination where the selections depend on marks. The selection of officers in the Police department is altogether different. The District Superintendent of Police or the Deputy Inspector-General of Police makes the selection. As it is a security service, it is better that the recruitment is made by the head of the department. If it has to be referred to the Public Service Commission, they will have to conduct competitive examinations and the recruitment will depend on marks. If Sub-Inspectors and others have to be recruited on the strength of marks, we may not be able to select the proper set of officers. Therefore, Sir, recruitment to the Police Service need not be done by the Public Service Commission.

"Then, hon. Member Mr. Suryanarayana Rao wants that Supervisors in the Public Works Department should be recruited by the Public Service Commission. Sir, just now there is a dearth of Graduate Supervisors. Our Highways, Irrigation and Electricity departments are just now gaining momentum and we have empowered the Chief Engineers concerned to recruit the candidates. The dearth of Supervisors is such that candidates are recruited even before the results are published. If the recruitment has to be made by the Public Service Commission, it will involve enormous delay and the little work we are trying to do in the districts will be hampered. There is no question of communal G.O. in this case. It is perhaps desirable that the Public Service Commission should be ultimately entrusted with this recruitment. In fact, direct recruitment of Assistant Engineers is being done by the Public Service Commission. When the number of candidates is more, perhaps it may be time to entrust this recruitment to the Public Service Commission, and we shall certainly look into

[Sri B. Gopala Reddi] [17th April 1951]

the matter then. Even in regard to the Junior Deputy Inspectors, the recruitment is at present made by the Director of Public Instruction. If it is necessary and desirable, we shall certainly entrust this to the Public Service Commission. I therefore give this assurance to hon. Member Mr. Suryanarayana Rao and hon. Member Mr. Farookhi that all these matters will be examined again. We have already asked our Chief Secretary to collect all the past records and look into the matter and see whether more appointments could be entrusted to the Public Service Commission.

3-45
p.m.

"As I said in the other House, Sir, it is not a great privilege conferred on the Ministers to be able to make appointments. We know the repercussions of this. We do not want to court any avoidable unpopularity in this matter. With regard to the criticism that the Regional Transport Officers and the Motor Vehicles Inspectors should be appointed by the Public Service Commission, I must say, Sir, that the department is yet in a fluid stage and it has not become permanent. The Secretary of the Central Road Traffic Board is the appointing authority as far as Motor Vehicles Inspectors are concerned because it is a technical appointment. Even there, the Public Service Commission can be consulted. The matter does not come to the Government. It is the Secretary of the Central Road Traffic Board that makes these appointments. Sir, the Regional Transport Service came into being only two or three years ago and it was only recently that the service was constituted. When the department is made permanent, the whole thing will be entrusted to the Public Service Commission. It is not our intention to retain the power of appointment to these posts with the Government always. When the department is made permanent, we do want to entrust it to the Public Service Commission. As a matter of fact, even now, even though the department is not permanent, whenever we make appointments of Regional Transport Officers, we invariably consult the Public Service Commission with regard to the suitability of particular candidates and after we receive their remarks, we make the appointments. Of course, in this case, the Public Service Commission will not advertise or call for interviews because it is a temporary department. But, as I said, Sir, ultimately the whole thing will be entrusted to the Public Service Commission.

"Sir, with regard to District Panchayat Officers, hon. Member Mr. Suryanarayana Rao was waxing eloquent that these appointments should also be entrusted to the Public Service Commission. The difficulty in this matter is that they are not Government servants in the true sense of the term. Now that the Panchayats Act has come into force from the 1st April 1951, the position has become different, and the Panchayat Officers may perhaps be treated as Government servants. But, since the salary of the Panchayat Officer is paid by the District Board and since the salary of the Commissioner is paid by the Municipality, they are not Government servants in the true sense of the term. Yet, we thought that the Government or the Inspector of Local Boards could

17th April 1951] [Sri B. Gopala Reddi]

make these appointments just as in the Corporation, the appointments are made by the Corporation itself and in the University, the appointments are made by the Syndicate or the Vice-Chancellor. But, strictly speaking, they are not Government servants who could be entrusted to the Inspector of Local Boards or the department concerned. These appointments do not come before the Public Service Commission because the Panchayat Officers, the Deputy Panchayat Officers and the Municipal Commissioners do not come under the category of Government servants.

"Then, Sir, apart from giving this assurance that the whole position will be re-examined again in the light of the criticisms made in both the Houses, I want to express that certainly it is our intention to keep the Public Service Commission in its dignified position (Interruption) and in its pristine purity as my Hon. Colleague Mr. Madhava Menon puts it. Otherwise, the Government of the will come to grief, as it were. Likewise, the High Court and the District Courts also must be maintained in their proper level. Similarly, the position of the Public Service Commission also should be maintained because it is the everybody's interest to see that it is kept in that manner.

"Sir, the other day I spoke in the Assembly on this subject, but certain portions of my speech were taken away from the context and they were disfigured, as it were, and two leading dailies of Madras made some comments on the speech. Sir, certainly it is not my intention to undermine the prestige of the Public Service Commission. Even if I said something, it was just because some Members were trying to put the blame on the Government and every time they were trying to show that the Government were always in the wrong, and so everything must be entrusted to the Public Service Commission. I was only anxious that the Government also must be permitted to function. Our Secretaries and Ministers also should act as though they are members of the Public Service Commission. It is not as if one is an *Asura* and the other is a *Devata*. After all, they are holding responsible positions and everybody must act as though he is a member of the Public Service Commission. Similarly, the Judges of the High Court also must act like that. So, also the Minister. So long as he is holding the post of Minister and so long as he is sitting on the Treasury Bench and shouldering the responsibility of Government, he must also act in an impartial manner without fear or favour. It is only in that light that I made certain remarks. Certainly, I am anxious that instead of distrusting our Secretaries and the Ministers all the time, we must create confidence in the Secretaries and the Ministers so that they could function in an efficient manner. From that point of view, I was trying to justify what was done. Sir, it was never my intention to do any damage to the prestige which is enjoyed by the Public Service Commission. I join with the hon. Gentleman Mr. Suryanarayana Rao in what he said on the necessity to maintain the high traditions of the Public Service Commission. I am very glad that in our State, we all respect the Public Service Commission. I

[Sri B. Gopala Reddi]

[17th April 1951]

know that in some other States, the recommendations of the Public Service Commission are treated lightly. But, in our State it has not been so. Here, from my personal knowledge, I know the attitude which the Hon. Mr. C. Rajagopalachariar took. I also know the attitude which Hon. Mr. O. P. Ramaswami Reddiyar took. And, from my personal knowledge, I also know the attitude which the present Chief Minister takes with regard to the recommendations made by the Public Service Commission. They must be given full liberty and the independence and we should not override their recommendations. I do not remember any case where the recommendation of the Public Service Commission specially with regard to direct recruitment, was not accepted by the Government. Therefore, Sir, I am certainly anxious that the independence and the high traditions of the Public Service Commission should be maintained, and I am second to none in our anxiety to see that we maintain those traditions.

"Then, Sir, with regard to other matters, such as the question of law officers, invariably, in these matters, the High Court is consulted, and wherever we think it is necessary to refer the matter to the Public Service Commission, we do so. I know that the law officers are excluded from the purview of the Public Service Commission because, the initiative is taken by the High Court and therefore, there is no need for us to take the initiative with regard to the appointment of District Magistrates or Senior Sub-Judges. We are not making any of these appointments ourselves. It is also one of the charges against us that we are not taking members from the District Bar and the City Bar for appointment as District Magistrates or Sub-Judges. I know there are certain difficulties. Yet, we make these appointments on the recommendation of the High Court. Therefore, we thought that the matter relating to appointment of law officers need not be referred to the Public Service Commission.

"Sir, in view of the assurance that I have given that the matter will be re-examined, I request hon. Member Mr. Suryanarayana Rao and the Hon. the Leader of the Opposition Mr. Farookhi to withdraw their amendments and to allow the Regulations to stand as they are for the time being. As I said, Sir, they will be re-examined by the Chief Secretary. Further, I may add that all these things were done only in consultation with the Public Service Commission and all these things were approved by the Public Service Commission. Therefore, there is nothing that we have done with regard to the present regulations over the head of the Public Service Commission. Anyhow, we shall re-examine the position later. I therefore request that the amendments may be withdrawn."

* SRI R. SURYANARAYANA RAO :—"Sir, my object in moving the amendments is to draw the attention of the Hon. Minister for Finance to certain things. If I have ventured to do that, it is because I have taken some interest in matters affecting the services and so, I thought it best to bring to the notice of the Hon. Minister the position with regard to those services. Now the Hon.

17th April 1951]. [Sri R. Suryanarayana Rao]

Minister has given an assurance, as he has given in the other House that all these matters will be looked into and rectified. He has accepted the principle that as far as possible, initial recruitment for all services should rest with the Public Service Commission.

"With regard to matters of punishment and appeals against punishment, Sir, I would beg him again to look into the past procedure. All that I want is that the past procedure should be restored in the near future in order to promote contentment and a sense of security in the services. In this matter, I am sure the hon. the Minister for Finance is as much interested as I am. I take his assurance, Sir; we only wanted to express our views on this matter and to make them known to the Government, and I am sure Sir, the Chief Secretary, when he goes through these suggestions, will give his best attention to what we have said in this House. With these remarks, Sir, I withdraw my amendments and I request the permission of the House to do so."

JANAB ABDUL LATIF FAROOKHI :—"Sir, with the permission of the House, I also withdraw my amendments."

The amendments of hon. Members Sri R. Suryanarayana Rao and Janab Abdul Latif Farookhi were, by leave, withdrawn.

V.—RESOLUTION RE POSTPONEMENT OF ELECTIONS
TO FEBRUARY 1952.

JANAB ABDUL LATIF FAROOKHI :—"Sir, I move—

'That this Council recommends to the Government to urge upon the Government of India the unsuitability of the month of December 1951 for holding general elections and that suitable steps may be taken to hold the said elections in February 1952.'"

MR. CHAIRMAN :—"I think it is better if the hon. Member adds the words 'in this State' in the resolution."

JANAB ABDUL LATIF FAROOKHI :—"With your permission, Sir, I add the words 'in this State'. The resolution reads as follows :—

'That this Council recommends to the Government to urge upon the Government of India the unsuitability of the month of December 1951 for holding general elections in this State and that suitable steps may be taken to hold the said elections in February 1952.'

Sir, in moving this resolution, I and my hon. Friends on this side of the House do not have the least intention of suggesting postponement of the general elections even by a day more than what is indispensably necessary. I am second to none in my desire to have the general elections as early as possible. We are aware that the present Houses of Legislature in the States and in the Centre have lived their full lives. The Members of the present Houses of the 4 p.m. Legislature were elected when India had not attained Independence and that too on a limited franchise. Now that we have not only attained Independence but have also become a Sovereign Republic, fresh elections on a wider franchise have to be held as early as possible. We do not therefore desire in the least to hinder the

[Janab Abdul Latif Farookhi] [17th April 1951]

holding of the general elections even for a moment longer than is absolutely necessary. If the proposed general elections are postponed for a couple of months, nothing is going to be lost. As a matter of fact, it is no postponement at all, practically speaking; it is only a suggestion to hold the elections at a suitable time. This House is aware that December is a rainy month. Particularly after the failure of the monsoon for four consecutive years, if the rains set in at the proper time this year, it will be raining heavily in December. It will also be very cold in December."

THE HON. SRI B. GOPALA REDDI :—" Will it be very cold in December? "

JANAB ABDUL LATIF FAROOKHI :—" Last year it was very cold in December."

SRI R. SURYANARAYANA RAO :—" Too cold for elections."

JANAB ABDUL LATIF FAROOKHI :—" Apart from that, the people will be engaged in harvesting operations and they cannot persuade themselves to take part in the elections so wholeheartedly and so enthusiastically as they are expected to do. It is because of this, the holding of general elections in the month of December will not be suitable. This does not mean that general elections throughout the country should be postponed to February 1952. This House will remember that in 1937 also when the Congress Party took office for the first time, general elections were held in the month of February. The Congress Party went out of office on account of their refusal to aid the war effort of the British Government, I think, in the month of October 1939. After that, there was a long interval during which period the Government was carried on by the Advisers. The next general elections instead of taking place in the month of December 1945 were held in the beginning of 1946 and they came to an end about the 31st March 1946. This clearly shows that at least in our State, the suitable time for general elections is not the end of the year but the beginning of the year. I feel that December will not be suitable for the coming general elections. I suggest that the general elections should be held about the month of February 1952. This does not mean, as I have stated, that we want the postponement of the general elections throughout the whole country. It is possible that in other States, December may be a most suitable time. The Hon. the Prime Minister has also stated that the general elections need not necessarily be held simultaneously throughout the whole country and that the time may vary in different States according to the conditions prevailing there and the convenience of the people. Such being the case, I do not think Sir, I am making any representation which cannot be accepted by the Government. I therefore move my resolution, namely—

' This Council recommends to the Government to urge upon the Government of India the unsuitability of the month of December 1951 for holding general elections in this State and that suitable steps may be taken to hold the said elections in February 1952.'

[17th April 1951] [Janab Abdul Latif Farookhi]

If the elections are held in February 1952, it will be possible for the people to take part in them with much greater enthusiasm and in much larger numbers than if they are held in December 1951."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" Sir, I second the resolution and in doing so, I wish to make a few observations. In the month of December, especially in the black cotton areas, it will be impossible for anybody to move from one place to another. It is better that the elections are postponed to February when the harvest will be over in most of the places and when it will be possible for people to move freely from place to place. I second the resolution."

MR. CHAIRMAN :—" Motion moved—

' That this Council recommends to the Government to urge upon the Government of India the unsuitability of the month of December 1951 for holding general elections in this State and that suitable steps be taken to hold the said elections in February 1952.'

* SRI S. B. ADITYAN :—" Sir, I feel that there is a great deal to be said in support of the resolution moved by the hon. Gentleman Mr. Farookhi. It is well-known that Pongal which marks the end of the harvest season comes round about the 15th January. Let us hope that after four years of bad seasons, we will have better seasonal conditions this year and a better harvest this year. If that happens, the people will be in a much better frame of mind, I mean in a more normal frame of mind because by that time they will have forgotten these abnormal seasonal conditions. We have so far had some normal amount of rains and things point to normal conditions prevailing hereafter also. There will be a normal harvest this year. The harvest season would end somewhere about the 15th of January. It is usual in the Tamil areas to begin anything auspicious in the month of *Thai*. The reason behind it is that the harvest having been completed and the grains having been brought home, the people will be in a fit frame of mind to celebrate anything. Therefore if the general elections also are held after the 15th of January, the people will be in a better position to appraise the issues put before them. The seasonal conditions would be better as the rains would have been over. The roads would be in a good condition. The people also would be in a better frame of mind. It would also be in accordance with our traditions to have things of this nature done in the month of *Thai*, that is after the 15th January."

DR. SYED TAJUDDIN :—" Sir, I beg to move the amendment which stands in my name. It is a very short and simple one and it runs as follows :—

For the word '*in*' substitute the words '*not earlier than*'.

Before I speak on the amendment proper, I wish to say a few words on the elections. The Congressmen have somehow thought it fit to widen the franchise and has given universal adult suffrage. I do not know how they were advised and by whom, to adopt this course. It seems to me to be putting the cart before the horse to

[Dr. Syed Tajuddin] [17th April 1951]

give universal adult suffrage before educating the masses. They have enthroned, as it were, an arithmetical Demos. The masses have become our masters and they will be exercising their own power and authority over us all. Professor Watkin of the Cambridge University once said that a zero plus zero would be merely zero and nothing but zero. These illiterate masses will not be able to understand their rights and responsibilities. The issues will be complicated and there will be a number of contending parties in the field. The masses will be merely led like so many dumb driven cattle by some leader of their group. They will get into the polling booths, record their votes and come out not knowing as to whom they voted for and for what purpose. The complexion of the coming Government will depend on the whim and fancy of the so-called leaders. I do not say that all leaders are bad persons, but human nature being what it is, people will take advantage of the colossal ignorance prevailing among the masses and they will be misled. Sir, some hon. Members have pointed out that if the elections are held in the month of December or even in January, it will clash with the harvests. Sir, it is a fact that we are now going through a food crisis. If the elections are held in the harvest season, there is every likelihood of the farmers neglecting their harvest and the food situation will go from bad to worse. Therefore, if in making our recommendations, we pin ourselves to the month of February, there may be some difficulty. We might leave the date and the month to the Central and State Governments. Some exigencies may crop up later on. Some States may not be ready to hold the elections in February. There must be freedom given to the Government to adjust the dates. The date must be early in March or so. That is the point which I want to bring out by my amendment. With these words, I move my amendment.

* SRI R. SURYANARAYANA RAO :—“ Sir, I have great pleasure in seconding the amendment of my hon. Friend, Dr. Tajuddin. It does not in any way affect the main purpose of the resolution. In doing so, please permit me, Sir, to make a few observations on the main resolution itself. Sir, for the first time in the history of the country, a large number of adults will be privileged to go to the polls. If that privilege is to be exercised, it cannot be exercised at a time when their stomachs are empty. According to the hon. Gentleman Mr. Adityan, the harvest will be over by about December or the middle of January. We hope that the harvest will be really a good harvest this year, and after the harvest is over, the people will be in a good mood to enjoy this privilege. Otherwise a large number of voters may not care to exercise their franchise at all and the whole thing may end in a fiasco. We are anxious that this great experiment should be as successful as possible and that as many voters as possible should go to the polls. Perhaps in our State we want a record number of votes to be registered. It does not matter for whom they vote. Therefore, Sir, we want that the month chosen should be as propitious as possible, propitious not for a particular party or group of people but to the general electorate as a whole. I think, Sir,

[17th April 1951]

from what has been stated, any date before February would not be convenient for all purposes. In our State, January and February are very good months for going about the country; it is neither hot nor very cold then; even if it is cold, it becomes tolerable, and especially for canvassing purposes, it would be a very desirable month, and so the elections can be fixed in February. I would like, on this occasion, to remove any impression which the general public may have that we are asking for this change because our State is not ready for elections. It is not so. I know, owing to the drive and energy of the hon. Gentleman the Minister for Finance and our energetic Election Commissioner, we are ready for the elections even to-day. If we have to go to the polls shortly, arrangements can be made as quickly as possible, so that elections can be held immediately. But, as I said, it is not on that ground that we are asking the Election Commission and the President of the Republic to fix any day in or after February, but because we want to make our elections as successful as possible. The education of the electorate is going on even from to-day; there are groups educating them in various ways; and perhaps the longer the electors have time to think over the issues presented to them by various groups, the better will be their decision to record their votes in favour of one or the other group. It is a simple request which we are making by this resolution to the Election Commission and the President of the Republic, viz., that we may be enabled to hold our elections in February, having due regard to the climate at the time, the seasons and the convenience of all people, both voters and the candidates. In asking for this, we are not seeking advantage to any party or any group; we are only thinking of the convenience of the electorate and the convenience of having a successful election at which as many electors as possible may give their votes—in short, in the interests of free and fair elections, a term which is being used often nowadays. There need be no alteration in the arrangements; in fact, the arrangements are ready, as I said, for holding the elections at any time. Other States may perhaps ask for a postponement of the date of elections on other grounds, but we are certainly not asking for it on the ground that we are not ready for it. It is because we are ready and because we feel that the month of February will be the most convenient month for all, that we make this request, Sir.”

* SRI S. JAYARAM REDDI :—“ Sir, I rise to support the resolution that has been brought forward by the Hon. Leader of the Opposition. We are really thankful to him for bringing it up. I thought that our Government would really say that November and December were the most disadvantageous months for elections so far as this State was concerned, but I am surprised to see that December was accented when a reference was made by the Central Government about this matter. As a matter of fact, I remember the Hon. Finance Minister once expressed that he would be proposing February as the most suitable month, and I do not know what made him change the month later. Perhaps he thought that in suggesting a later month, he might be misunderstood as trying

[Sri S. Jayaram Reddi] [17th April 1951]

to continue in office for some more time. That, Sir, should not be the attitude of a man holding a responsible position; he should have taken courage and said that in this State, November and December would not be convenient for the conduct of elections, because those are our worst rainy months. For the last four years the rain God has failed us, and as my hon. Friend Mr. Adityan put it, next year we are likely to have more rains"

MR. CHAIRMAN :—" This year, not next year."

* SRI S. JAYARAM REDDI :—" I am not very much worried whether the time fixed is going to be propitious or auspicious time; we are worried only about the climatic conditions that will prevail at that period. A lot of polling officers will have to go about and all sorts of propaganda will have to be done. As the hon. Gentleman Mr. Suryanarayana Rao put it, we are to have adult suffrage, and therefore, all necessary precautions must be taken. I do not know what movement of Police will be required at the time; we may also require a lot of jeeps; perhaps jeeps will not suffice and we may even require lorries; they may have to be taken to the interior places and the most essential thing at the time will be quick movement from place to place. So, Sir, I would request this Government to make a representation to the Central Government to change the date of elections from December to the end of January or to the beginning of February, if not to a much later date."

SRI M. NARAYANA RAO :—" Mr. Chairman, Sir, I am sorry I am not able to agree to the resolution of the Hon. Leader of the Opposition. It is true that from a practical point of view and from the point of view of public convenience, February is a better month—there is no doubt about it. In February there is no rain at all and the season will be quite genial for elections, and I agree that from the point of view of the electorate, it will be a very suitable month. At the same time, I think that somehow the electorate should be given the chance of exercising their votes as early as possible. The Government and the Congress have been criticised very often for their acts of omission and commission, and I think the sooner we hold the elections, the better. Let the electorate decide as soon as possible which party should be in power, whether they have got confidence in the Congress party or any other party. Elections have been delayed quite long enough, and the best way of educating the electorate is, I think, by holding elections as often as possible. We all know that the electorate in our country is not quite up to the mark, and if the electors are to be educated, the best way of doing it is by holding elections as often as possible. After all, election after five years is not too soon. The electors must be given the earliest chance to give their opinion on the various issues that are before them at the present day. After we gained our Independence, so many things have happened and so much water has flown under the bridge in between the date of attainment of Independence and this day. In this view, the electorate should be given the chance of deciding

[17th April 1951]

the issues as early as possible. I am not therefore able to agree to the suggestion of the Hon. Leader of the Opposition, but I feel, as I said, that February will be much more convenient than December. Still, people should not misunderstand that we are trying to sit in office as long as possible, that the Government and the Legislators here want to continue in authority for some more time. Let them understand that we are going to put the issues clearly before them as early as possible and take their decision on all vital matters. If they are really anxious to express their decision, let them put up with some little inconvenience. If December is fixed, no doubt, there may be a little inconvenience caused to the voters and also to the candidates; but, as I said, I would prefer their putting up with a little inconvenience and going to the polls as early as possible, to a regular postponement of the elections to a later time. With these words, Sir, I am sorry, I am not able to see eye to eye with the Hon. Leader of the Opposition."

* SRI M. NARAYANA MENON :—" Sir, the first experiment of the greatest magnitude will begin when we begin our election campaign and people scattered far and wide, north to south and east to west in this State will be stirred to activity at the time of the elections. At that juncture, nothing should mar the enthusiasm of the people and there should be no obstacle put in the way of our people exercising their free votes, or canvassing or doing propaganda work. We must remove every inconvenience from their way and see that they work up to the enthusiasm which we have generated in them by the legislation we have enacted so far. I am not afraid of the cold in December, because people who have to move about will be quite able to stand it. We are not also afraid of the rain because the people moving about may not care for it. The real difficulty, however, will be that the poor people who have been losing so much for the last so many years for want of rain will again be losing this time—in spite of having rains—by not being allowed to take advantage of the rains at that time. Any inconvenience caused to the voters at the time of the harvest should be prevented. In Malabar, December is the time when we have cold and rain. Cold we do not care, but rain we will have at that time. That is the time when harvesting commences in certain places and the harvesting will go on for a month or more. If people are to be free to take part in the elections, then the elections must be postponed to some day in February. Whether we should postpone it to a time later than February, is not a matter which we need consider now. Political parties are even now trying to do propaganda work; and even in the Congress party there may be a split or there may be new parties coming up in the Congress party itself. But what is more important is that the people should be free to move about and take an active part in the elections. Therefore, Sir, I support the motion."

THE HON. SRI B. GOPALA REDDI :—" Sir, on this motion, the Government would like to remain neutral and Members may express themselves in whatever manner they please, as they have

[Sri B. Gopala Reddi] [17th April 1951]

done. This is entirely a matter for the Election Commission and the Government of India, and we have to do nothing more than carry out the behests of the Government of India in the matter. Therefore, we do not want to express any opinion on this matter and we have not considered it at all. Though of course individually we may be expressing our views, as a Government, we have not thought about it. Anyway, Sir, I think the motion has come at an opportune moment, because we now know the sense of the House. In the course of the next week or so, some of us will be going to Delhi and we may contact the Election Commissioner, the Prime Minister and others, and we will then be able to press the views of this honourable House on the authorities concerned. I may say, however, in this connection, that the Prime Minister was anxious to have the elections even by about October-November of 1950. I remember he called a conference of the Constituent Assembly Members and impressed upon them the need for holding elections some time immediately after the new Constitution came into force. So, he wanted to have the elections in the course of 1950 itself; but of course the Chief Ministers in the States and the Governments were trying to express the difficulties of printing the electoral rolls, delimiting constituencies, etc., and so, finally the Government of India thought they could fix the elections for February 1951 or so. But again the Central Cabinet considered the issue and thought that by 1951 February, the States would not be ready with the electoral rolls, etc., and therefore they thought of having the elections towards the end of 1951. The Election Commission asked us some time ago to prepare a time-table which will enable the State Government to complete the elections by December 1951. They asked us whether the months of October, November or December—which of the three—would suit us; and we said—our option being very limited of course—that December was perhaps the least objectionable, because October and November were definitely monsoon months. Of the three months, October, November and December, we preferred December and there the matter stands. We have not heard again from the Election Commission whether they will allow us to have the elections in December. But, whether, it is, our recommendation definitely was that the elections might be held in the month of December. We have even prepared details as to how the elections should be conducted and in what stages—it spreads over 17 days—in which constituency the elections should be held on the first day, in which on the 4th day or on the seventh day and so on. So, we have actually worked out all the details. Our electoral rolls will be ready by about the 15th of May—I mean the supplemental list—and our delimitation proposals will be ready by the end of this month; and all the details with regard to polling arrangements, police bandobust, etc., are also being worked out with meticulous care in all detail and ramifications. Therefore, Sir, we are quite ready to hold the elections any time the Central Government want.

“There are of course climatic conditions, the monsoon conditions, the food situation, etc., which are outside the purview of

[17th April 1951] [Sri B. Gopala Reddi]

departmental activity but they are also formidable points that have to be taken into consideration. We decided in favour of holding the elections in December, but now these points have been raised. I may inform hon. Members that even before this resolution was tabled, I expressed by individual opinion some time ago in the annual number of the Madras Information (Republic Issue) 1951. This is what I said—

“In some districts even December may be inconvenient as harvesting will be in full swing and the entire rural attention will be focussed on the harvesting of the paddy than on the sweeping of the polls. In 1931 elections to the Assembly were held in February and in 1946 elections were held in March. February and March will be more suitable to our districts, though we won't raise any serious objection even for December.”

That is what I said some time in December or January last. But, there are other objections also. Constitutionally speaking, any State Government must be prepared to conduct elections, say, within three or four weeks. For instance, there may be a dissolution of the Legislature. Any time on the advice of the Chief Minister the Governor may dissolve the Legislature and we must be able to conduct the elections in three or four weeks' time. It may be the monsoon period or mid-winter, but dissolution of the Legislature or Cabinet crisis will not wait for climatic conditions. So, politically speaking, the Government must be prepared to conduct the elections at any time with a notice of 4 or 5 weeks. Even in England, general elections might take place any time. For instance, any day the Government may be defeated by a snap vote and the Government may be forced to resign and they must be prepared to conduct elections irrespective of the seasons and other inconveniences. They are of course, abnormal conditions. But, taking a normal view of things, we are talking in terms of December or February, at any rate not earlier than February and so on. There is also another point to be considered in this connection. Politically, the people of our State feel very strongly in the matter of elections, and as many changes have taken place since the last Assembly elections in 1946, it is time we go before the electorate and take their fresh verdict. Many gigantic changes have taken place, particularly, the Independence of the country, the partition of the country, the problems concomitant to partition, the food situation and such other things have happened and it is time we go and take a fresh mandate from the electorate. That seems to be the view of the Prime Minister also. And, even for people working in Government departments, it is also necessary that they should not be kept in suspense and they must have a clear idea of what the people want and what type of Government they want. So, all these matters should not be kept in a fluid condition and there must be some sort of definiteness and certainty about what the people desire in the present context of things. After all, in 1946 they gave their verdict in favour of the Congress when things were different. Now, circumstances have altered the entire electoral machinery and it is time people also are allowed to express their views under the aegis of adult franchise. Though people may be illiterate under adult franchise, yet I am sure they can certainly

[Sri B. Gopala Reddi] [17th April 1951]

use their discretion and vote and if they want they can follow the lead of a local dealer. Because it is a secret ballot it is open to them to do what they like.

"That apart, Sir, we were elected in 1946 for a period of 5 years and that period would expire on 23rd May 1951. So, we are going to have a sort of extended life."

DR. SYED TAJUDDIN :—"What about the Council?"

THE HON. SRI B. GOPALA REDDI :—"Some of them were elected even in 1937 and that goes by rotation. So far as the Assembly is concerned, normally they should not have more than the stipulated period. As I said, from 23rd May this year, the Assembly will also enjoy a sort of extended artificial life."

"Several hon. Members graphically described the difficulties of conducting the elections in December because of harvesting and food situation, etc. Food situation may be acute in certain districts, because harvest will be available to them only in January or February. I know that in certain districts, October, November and December are lean months. For instance, in my own district of Nellore the harvest commences after Pongal. That means, December will be a very bad month, because people would have exhausted all their available stock and whatever was available would have been exported to Madras and the other districts and there may not be anything left for them. So, Sir, as I said, in Nellore the food situation will reach an acute stage in the month of December. That is one thing. Then, in the black cotton soil tracts, walking is difficult and that again is a formidable factor we have to consider. More than all that, there are some practical difficulties also. We require pucca buildings for polling stations and it is difficult to find pucca buildings for the thousands of polling stations in all the places. We do not also want voters to walk more than three miles even if there is no sufficient voting strength in certain places. Generally, we are having a booth for 750 voters and for an equal number of women voters there should be another booth and therefore in a particular station about 1,500 voters will be voting. There will thus be innumerable polling booths. In some places, it may not be possible to get elementary schools, reading rooms or even village chavadis. So, in many places we have to put up temporary thatched sheds. If by any chance there is a downpour, as we sometimes have in December, the thatched polling stations will be destroyed. Anything may happen. In a big constituency, suppose four or five polling booths fall of, there may not be any polling at all."

SRI R. SURYANARAYANA RAO :—"Some streamlets also may be in floods preventing voters from going to the poll."

THE HON. SRI B. GOPALA REDDI :—"It may not be necessary to cross streams, because we are going to have polling booths in every big village where there is a voting strength of 1,500. So, if in a village there is a population of 2,000 or 3,000, there will

[17th April 1951] [Sri B. Gopala Reddi]

be a polling booth and there may not therefore be any need for voters to cross streams or walk long distances. We are trying to accommodate all the villagers and we do not want all the adults in a village to go to another village and dump themselves on other people. At the same time, we are anxious that nothing should be done to paralyse the electoral machinery in particular places. If even in one or two places it is paralysed and people are unable to record their votes, I do not know whether the election will be valid. Therefore, we chose the month which is not fraught with difficulties of monsoon, etc.

"But, Sir, there is also another financial difficulty if the elections are to be postponed. I refer to budgetary procedure. If the elections are held in December, the new Government can begin to function from the 1st of February or so, because Council elections have to be conducted in January; and towards the end of February they may present the Budget and get it passed by the end of March. On the other hand, if the elections are to be held in February, there will be certain difficulties. We have examined the position yesterday and even for getting a vote on account for certain months there are constitutional difficulties, because according to Article 206 the Legislature cannot vote on account unless the Budget is prepared and they are enabled to conclude the proceedings by a stipulated time. This is what Article 206 of the Constitution says—

"Notwithstanding anything in the foregoing provisions of this Chapter, the Legislative Assembly of a State shall have power—

(a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in Article 203 for the voting of such grant and the passing of the law in accordance with the provisions of Article 204 in relation to that expenditure."

So, Sir, according to certain interpretations, unless the Budget is prepared and presented to the Legislature, the Finance Minister cannot ask for a vote on account. We thought we could get a vote on account for the months of April, May and June, even without presentation of the Budget. But, according to Article 206, it cannot be done, because the term used there is 'pending completion of the procedure prescribed'."

MR. CHAIRMAN :—"I do not think it warrants that kind of interpretation."

THE HON. SRI B. GOPALA REDDI :—"Yesterday we were discussing this question in a conference and Mr. Venkateswaran also held the Chairman's point of view. The question is whether it is necessary that we should present the Budget. Both the Finance Secretary and the Legal Secretary held that 'pending completion of the procedure prescribed' means only after the Budget is presented, then general discussion and voting of demands, etc."

MR. CHAIRMAN :—"Presentation of the Budget also is part of the procedure."

[17th April 1951]

THE HON. SRI B. GOPALA REDDI :—" I do not know. It is all a question of legal procedure. As the Article stands, a vote on account cannot be taken."

MR. CHAIRMAN :—" What happened in Delhi? "

THE HON. SRI B. GOPALA REDDI :—" After the Budget was presented and after the general discussion and before they proceeded with the demands, the Hon. Finance Minister moved the vote on account, because he knew the voting of demands would not be concluded before the end of March and in fact they went into April also."

MR. CHAIRMAN :—" Why should it not be concluded and if they wanted it they could have concluded."

THE HON. SRI B. GOPALA REDDI :—" There the general discussion takes so many days, and the voting of demands take so many days. On the first day the Defence Demand is taken and it takes time. So, they arrange the time-table in such a manner as to go on till the 10th of April. Therefore, the Finance Minister moved the vote on account after the general discussion. 'So, if the elections are to be held in February, then the new Government will come into being from 1st April and they will be able to present their Budget only in June. In fact, they should have at least four weeks' time to prepare their own Budget and get it printed. These things have to be taken into account. Even though they want the Budget to be prepared in November, the department can do it, provided they commence their work from May or June. They actually require about six months' time to prepare the Budget. Then they can ask for a vote on account for May and June. Of course, it can be done. But, whatever it is, that difficulty is also there. It has to be examined again by the Government of India, in case they are going to accept this resolution, namely, to have the elections in February or so. In such a case what is the procedure that should be followed by us, has also to be examined by them and some suggestions given."

" These are the various aspects, political aspects and other aspects to be considered in connection with this resolution. Members are free to vote according to their own wishes and the Government have no particular view about it and we are anxious to know the view of the House so that we may communicate it to the Election Commissioner in good time."

JANAB ABDUL LATIF FAROOKHI :—" Mr. Chairman, Sir, I only wish to submit a few remarks with regard to the observations of the hon. Gentleman Sri Mothey Narayana Rao. He remarked that he could not see eye to eye with me but I say, Sir, that I am seeing eye to eye with him because, Sir, throughout his speech, I did not hear one word from him which went against the resolution. He feels that the month of February is more suitable for election than December. His only apprehension is that the

[17th April 1951] [Janab Abdul Latif Farookhi]

electorate outside may feel that we are evading the general elections. As a matter of fact, Sir, I feel that there is no such thing as evasion of general elections. My resolution only requests the Government to postpone the elections by a couple of months."

DR. SYED TAJUDDIN :—" Not for years."

JANAB ABDUL LATIF FAROOKHI :—" We do not want the elections to be put off for years. The new Government can frame its own Budget and come forward before the new House with its demands. The extension sought for by means of this resolution is not after all great; it is only two months and those few months are not going to alter the destiny of the State or the destinies of the parties which will contest the elections. Therefore, Sir, I feel no point has been made by him opposing the resolution and as a matter of fact, he has not opposed the resolution at all but on the other hand, he has in practice supported all my arguments, his only fear being that people outside may feel that we are trying to sit longer. Let me assure him, Sir, that that fear is not justified because we do not want to sit here a moment longer than is necessary. If we are going to hold the elections in December and if, as has been pointed out by the Hon. the Finance Minister, there are certain seasonal and other difficulties and if the elections are going to be vitiated on account of them, I feel, Sir, that will be doing a greater harm to the State than postponing the elections by just a few months and I would, therefore, request the hon. Gentleman Sri Mothey Narayana Rao to see that this resolution is passed without a division."

SRI S. B. ADITYAN :—" Are you prepared to accept the amendment? "

JANAB ABDUL LATIF FAROOKHI :—" Mr. Chairman, Sir, I am prepared to accept the amendment because the principle of the resolution is not in any way affected by the amendment. I accept the amendment."

MR. CHAIRMAN :—" I shall now put the amendment. The question is—

' For the word " in " substitute the words " not earlier than " . ' "

The amendment was carried.

MR. CHAIRMAN :—" I shall now put the original resolution as amended. The question is—

' That this Council recommends to the Government to urge upon the Government of India the unsuitability of the month of December 1951 for holding general elections in this State and that suitable steps may be taken to hold the said elections not earlier than February 1952. ' "

The motion was carried.

The House adjourned to meet again at 11 a.m. on Wednesday, the 18th April 1951.

[17th April 1951]

APPENDIX I.

[Vide answer to starred question No. 216 asked by Sri R. Suryanarayana Rao at the meeting of the Legislative Council held on 17th April 1951, page 983 supra.]

Note on the Industrial Progress of the State.

The development of industries in this State has been receiving the attention of both the Central and State Governments since the close of the second world war. The Government of India decided to work out a Post-War Development Scheme under which there would be an orderly and co-ordinated development of industries throughout the country. The work of the National Planning Committee and its 29 sub-committees formed the basis for planning of industries by the Industrial Panels constituted by the Government of India, whose reports contained valuable material for the guidance of the Central and State Governments in drawing up their plans for industrial development of the country. These plans were modified from time to time in the light of local requirements and formed the basis for the development programme of the Madras State.

Apart from this, the State Government constituted the Industrial Planning Committee in 1947 to draw up long-term and short-term plans for the industrialization of the State. Some of the recommendations of the Committee have already been implemented while a few are still under consideration.

As everyone is aware, the basis for the development of industries in this State as in any other country is the availability of materials of which those of mineral origin are by far the most important. The survey of the minerals of this State has been intensified with the addition of a large number of officers to the Madras party of the Geological Survey of India. The investigations carried out, revealed that this State possesses a wealth of minerals which could be usefully utilized in the development of industries.

Next in importance comes research. Proper utilization of raw materials can be achieved only through research. The Government have realized the importance of research in the development of industries and have established the Chemical Testing and Analytical Laboratory for working out the processes of utilization of the minerals and other raw materials available in this State in industries. The Government have also sanctioned the establishment of an Oil Technological Institute at Anantapur for conducting research into the utilization of the oilseed resources of the State and for training students in Oil Technology. Buildings to house the institute at an estimated cost of Rs. 9.37 lakhs have

17th April 1951]

almost been completed and orders have been placed for the equipment of apparatus required. The institute is expected to start functioning from June 1951. The Government of India have also sanctioned the establishment of two research institutes in this State for conducting research work on problems connected with tanning and leather industry and Electro-chemical industry and they are likely to start functioning at an early date.

Much progress has been made during the last three years in the development of major industries like textiles, sugar, cement, vanaspathi, heavy chemicals, automobiles, etc. Except for cement-industry, self-sufficiency has not been attained and every step is being taken to bridge the gap between the total demand and indigenous production.

Textile industry.

Under the post-war plan for the development of the textile industry, 352,000 spindles were allocated to this State and they were distributed to certain existing and new mills. The progress made by the allottees is being reviewed from time to time and the allotments which are not utilized are cancelled and new allotments are made to other prospective promoters, in order that the entire spindleage may be installed and worked expeditiously.

Under this plan eight new textile mills, three in Coimbatore, two in Malabar and one each in Guntur, Bellary and Tirunelveli districts have commenced production with a total spindleage of 74,070. Two new mills, one in North Arcot district and the other in the Tirunelveli district have installed a total of 12,400 spindles and are awaiting power supply to go into production. The total number of spindles actually installed in this State, including the expansion effected by the existing mills under the post-war plan, is 100,840. Besides, 21,200 spindles have been received and are in the process of erection.

Over and above these, under the automatic registration scheme, i.e., by virtue of having placed orders prior to 23rd December 1944, about 87,000 spindles have either been received or installed by twelve mills in this State. The Textile Commissioner, Bombay, has also allotted *ex-gratia*, a total spindleage of about 39,000 outside this State's quota under the post-war textile Expansion Plan, for special reasons. It has been reported that Madras State leads the rest of India in the implementation of spindleage allotted under post-war textile expansion plan.

Under the Madras State Aid to Industries Act, a sum of about Rs. 46.45 lakhs has been sanctioned as loans to textile mills in this State.

Sugar industry.

There are at present 13 sugar factories in this State producing in all a little over 50,000 tons of sugar which is less than 50 per cent of the requirements. Under the expansion programme of

[17th April 1951]

the sugar industry five of the existing factories have been permitted to expand their crushing capacities and ten new factories have been permitted to be established. The production of sugar in the State is expected to increase by about 90,000 tons per annum on the completion of the expansion programme.

Of the five existing factories which have been permitted to expand four have given effect to the expansion. As regards new factories, only one factory has started production. Two more are expected to start production in 1951. As regards the other factories, the promoters are still busy with the preliminaries such as raising capital, purchase of machinery, etc. Their progress is being watched.

Power alcohol industry.

At present power alcohol is not being manufactured in this State. In order to utilize the molasses, which is mostly wasted at present and to add to the quantity of motor-fuel, this Government have, with the previous approval of the Government of India, sanctioned the establishment of the following distilleries to produce about 14½ lakhs gallons of power alcohol per annum for mixing with petrol for use as motor fuel—

	LAKHS GALLONS.
(1) The East India Distilleries and Sugar Factories, Limited, Nellikuppam ..	4
(2) K.C.P., Limited, Vuyyuru	4
(3) The India Sugar and Refineries, Limited, Hospet	2½
(4) The Vizag Commercial Corporation, Limited, Visakhapatnam	4

The factories are taking steps to implement the allotments.
Cement industry.

Under the post-war plan for the development of cement industry, the four existing cement factories in the State with a total annual capacity of 375,000 tons were permitted to expand their production capacity by 420,000 tons per annum. Two factories have effected the expansion totalling 250,000 tons per annum. Another factory has completed the installation of the additional plant with an annual capacity of 70,000 tons and expects to put the plant into commission shortly.

Besides the above expansion, three new factories with a total capacity of 300,000 tons per annum were permitted to be set up in this State. Of these, one unit has commenced production with an annual capacity of 100,000 tons and is considering the question of expanding the capacity by another 50,000 tons.

17th April 1951]

The permission granted to the other two factories has been withdrawn as the promoters could not show any progress. The question of permitting the establishment of a cement factory in the Rayalaseema with an annual capacity of 100,000 tons is under consideration.

The production of cement in this State during 1949-50 was 470, 864 tons while the demand was 393,017 tons.

Vanaspathi industry.

There are two existing vanaspathi factories in this State producing about 4,500 tons of vanaspathi per annum. Under the Government of India's expansion programme of the vanaspathi industry, ten new factories have been permitted to be set up in this State.

With the expansion now allowed, about 45,000 tons of vanaspathi is expected to be manufactured in this State. Of the ten new factories permitted to be set up, the factories at Tondiarpet (Madras), Tiruchirappalli, Kurnool, Guntur and at Chittoor have already started production. All the others have imported and installed the requisite plant and machinery and may start production shortly. The Government have granted aid to the extent of Rs. 25 lakhs under the State Aid to Industries Act to Vanaspathi factories. The Government have also granted aid to oil factories in this State.

Heavy Chemicals.

As regards heavy chemicals, the following companies have been permitted to start factories in this State :—

- (1) The Link Chemicals, Tirunelveli—Soda ash 30,000 tons annual capacity.
- (2) The National Chemical (Alkali), Limited, Guntur—Soda ash 30,000 tons annual capacity.
- (3) The Southern Chemicals, Limited, Tirunelveli district—Caustic soda.
- (4) The Heavy Chemicals, Limited, Tirunelveli district—Caustic soda.
- (5) The Indian Chemical and Fertilizers, Limited, Visakhapatnam district—Caustic soda for phosphatic fertilizers.

Of the above, the link chemicals and the heavy chemicals have been given an assurance by the Government that they will be prepared to consider the taking of shares to the extent of Rs. 10 lakhs subject to suitable conditions provided the promoters collect more than 30 lakhs paid-up capital.

Automobile and cycle industry.

In the automobile industry, two factories, one at Ennore (Askok Motors) and the other at Vandalur are being put up for assembling of motor cars and eventually for the manufacture of cars and spare parts. The Automobile factory at Vandalur will also be assembling

[17th April 1951]

Ferguson Tractors. A factory is also being erected in this State for the assembling of Hercules cycles and in due course it will be manufacturing cycles in this State. The company is expected to produce 100,000 cycles at the end of four years.

Coal gas industry.

The Madras Gas Company, Limited, has been permitted to establish a gas service station in the City for supplying coal gas for domestic and industrial use. The Corporation of Madras has agreed to the establishment of the gas service station provided the project is taken up after suitable legislation to control the supply of gas in this State is undertaken. The company is busy in collecting share capital and it may be expected to locate the plant soon.

Paper industry.

The K.C.P., Limited, Vuyyuru, have proposed to set up a factory at Vuyyuru, Krishna district, for the manufacture of paper pulp from bagasse, a by-product in the sugar industry. The Government have also permitted a paper industry to be started at Papanasam utilizing *Eta reed*.

Other industries.

For the manufacture of wood screws in the State, the Madura South Indian Corporation is setting up a factory near Madras. The machinery has arrived and the plant is likely to start production at an early date. Another factory for manufacture of wood screws is proposed to be set up at Rajapalayam. The promoter of the company has applied to the Chief Controller of Imports for licence to import the requisite machinery from Japan and he is going to Japan this month to arrange for the purchase of machinery. The Government have granted State Aid to this concern.

Messrs. Shaw Wallace & Co. has undertaken the installation of a glue factory in this State. According to latest indications, the company will be in a position to commence production by March 1951.

The South Indian Export Company, Limited, Madras, who are the Agents for Oldham's Batteries are going ahead in establishing a factory at Madras for the manufacture of batteries in collaboration with their principals in the United Kingdom.

A five-year scheme for the development of sericulture on the lines recommended by the panel on silk is under active consideration of the Government. These proposals are intended to improve the quality and the yield of cocoons and ultimately to place this State in a position to compete with imported silk.

Basic industries.

In respect of certain basic industries of All-India importance like iron and steel, magnesium and magnesium products, aluminium, ammonium phosphate, heavy electrical power plant, etc.,

[17th April 1951]

this Government have been urging on the Government of India the need to establish these industries in this State. Messrs. Dalmias who have purchased the Shevaroy's bauxite mines, have now submitted proposals for the manufacture of aluminium from bauxite and their scheme is under the consideration of Government. Government are also independently considering the question of setting up an iron and steel plant in this State with the ores available at Salem and Sandur. Samples of iron ore were sent to Messrs. Elektrokemisk A/S Oslo, Norway, for testing the suitability of the mineral in the manufacture of iron and steel and their detailed technical report has since been received. The question of addressing the Government of India for including this project under the Truman's Point Four Programme is under the consideration of the Government.

The question of the economic exploitation of lignite deposits occurring in South Arcot district is being actively pursued. It is reported that large blocks of power could be generated and various chemicals and valuable by-products could be obtained from lignite besides using it as fuel. Some foreign experts have been consulted to advise on the economic exploitation of lignite and their replies are awaited. Mr. R. S. Sanford of the United States Bureau of Mines visited the lignite field in January last under Point Four Programme. As suggested by him, it has been decided to include this investigation under President Truman's Point Four Programme and to constitute a Committee of four Engineers to advise on the lignite operations. The Government of India have been addressed for taking further action in the matter.

Model factories.

The Government are running factories of their own for the production of coir, soap, shark liver oil, silk paper and ceramic wares. These factories are intended to serve as model units and for training technical personnel. The Government propose to publish an exhaustive Commercial Directory to provide up-to-date information to industrialists and commercial interests.

To afford medium and long-term credit to existing and new industries, Government promoted in 1949 the Madras Industrial Investment Corporation, Limited, as a Joint Stock Company registered under the Indian Companies Act, 1913, with an issued capital of rupees two crores. The Corporation commenced its regular business in the latter half of 1949 and a sum of Rs. 57 lakhs (approximately) has been sanctioned so far as loans to various industrial enterprises.

Besides, the Government have also amended the Madras State Aid to Industries Act with a view to enable them to subscribe directly for shares in or in any manner aid any industrial enterprise, the paid-up capital of which exceeds thirty lakhs of rupees.

Since the establishment of the National Government State Aid under the Madras State Aid to Industries Act, is being given to

[17th April 1951]

industrial units on a liberal scale. The amount of State aid sanctioned to industrial units during the year 1949-50 was Rs. 35,86,900 and that during the year up to November 16, 1950, was Rupees 29,49,000.

Most industries can only develop on the basis of private enterprise and Government are prepared to render all assistance to their successful working. It will therefore be seen that this Government have been doing all that is possible to accelerate the industrial development of the State.

APPENDIX II.

[Vide answer to starred question No. 217 asked by Sri R. Suryanarayana Rao at the meeting of the Legislative Council held on 17th April 1951, page 985 supra.]

(a) Yes.

(b) and (c) The following action has been taken :—

(i) The Government of India were repeatedly addressed to allot increased supplies of yarn by banning exports of yarn and by withdrawing from mills the concession to sell one-third of the yarn produced direct to dealers of their own choice. This concession has been withdrawn and exports of yarn have also since been completely banned by the Government of India. They have also been requested to earmark 29,780 bales of yarn only for the handloom industry before meeting the demands of other consumers. The Hon. Minister for Industry and Commerce of the Government of India, during his recent visit to Madras, has publicly announced that the supplies to this State will be progressively increased to 17,451 bales in January 1951, 18,801 bales in February 1951, 19,037 bales in March 1951 and to 22,500 bales in April 1951.

(ii) Relief centres had been opened in certain districts to provide work to the weavers who are in distress.

(iii) Cash doles have been ordered to be granted to deserving weaver families in certain districts.

(iv) The available supplies of yarn are being distributed among the various weaving centres in the districts by a system of informal rationing on the basis of identity cards and the Collectors have been asked to form Advisory Committees to assist them in taking a census of the active looms and in distribution of the yarn.

(v) To meet the present shortage of yarn of higher counts, the Deputy Chief Controller of Imports has issued a licence in favour of the Director of Controlled Commodities for the import of 80s and 100s yarn from United Kingdom to the extent of Rs. 12 lakhs and necessary orders have been placed with the importers.

(d) Yes. Weavers who are members of co-operative societies are allowed to draw 20 per cent more yarn than other weavers.

17th April 1951]

(e) Supplies of yarn to the States in the Indian Union are regulated by the Government of India through the Textile Commissioner, Bombay. Under the Cotton Textiles (Control) Order, 1948, the Textile Commissioner, Bombay, exercises control over the mills in the Indian Union, and under All-India Distribution Scheme, the free yarn released by the mills after meeting the requirements of their respective weaving sections are pooled together and distributed to the several States on the basis of their consumption in the past. The share of the Madras State was fixed at 26.05 per cent of the total free yarn in the pool. Accordingly, the Madras State had been receiving about 22,500 bales per mensem.

During the second half of 1949, there was a glut of yarn in the market which is mainly attributable to the following reasons :—

(1) With peak production in 1948 for the cotton yarn industry, there was abundance of cotton yarn and cloth.

(2) Allocation of mill-made cloth was double the normal allocation.

(3) There was no export of handloom cloth to Pakistan, Burma and Far East markets due to political and financial changes and the consequent inability of the handloom industry to stand the strain of competition within itself and the mill-made cloth.

In order to help liquidating the accumulations of cloth and yarn, several measures were taken by this Government and the Government of India, namely :—

(1) The mills were given concession to sell one-third of their production to the buyers of their own choice in the Indian Union;

(2) to sell all yarn unlifted by the State nominees to buyers of their own choice;

(3) licensed dealers purchasing yarn from the mills were allowed to sell the same to licensed dealers in other States or to licensed dealers or consumers within the State without any restriction;

(4) licences were issued freely to all who applied by abolishing the class of wholesale and retail dealers and by reducing the licence fee and deposit from Rs. 125 and Rs. 5,000 to Rs. 50 and Rs. 500, respectively; and

(5) liberalization of exports.

The above measures, while helping to relieve the congestion of stocks with the mills and the dealers, considerably stimulated exports of yarn outside the Union. Consequently there was shortage of yarn supplies to the internal market with its concomitant adverse effects on the economy of the handloom weaver. The mills began not only to divert a large percentage of their production for exports which were definitely more remunerative but also entered into heavy commitments for forward deliveries. This will

[17th April 1951]

be evident from the fact that mills' offers to this State began steadily to decline. The position was aggravated with the cut in power supply for some months in 1950 and labour strike in certain mills mainly in the Bombay area.

The figures of supplies below will show the declining supplies received from mills :—

	SALES.
January 1950	22,096
February	17,994
March	21,005
April	16,332
May	13,206

As a result of repeated representations by this Government, the Government of India first withdrew temporarily for June and July 1950 the concession from the mills situate in the Madras State to sell a part of their production to dealers of their own choice and later, the concession has been withdrawn in the case of all mills in the Union. They also stopped completely exports of all counts of yarn outside the Indian Union. Despite these restrictions, there was no perceptible improvement in the mills' offers, owing to the fact that the restrictions did not apply to their earlier commitments and that they diverted their production towards fulfilling their earlier contracts. The supplies from June to December 1950 have been as follows :—

	SALES.
June 1950	18,855 *
July 1950	23,569½ *
August 1950	18,675
September 1950	16,332
October 1950	12,232½
November 1950	12,232
December 1950	11,139½

* The increased offers are due to the withdrawal of concession to sell to dealers of their choice in the case of Madras Mills.

The main reason for the short production of yarn at present is the cotton shortage. With the announcement of higher prices for the new cotton crop and with the revision of yarn prices with effect from 1st February 1951 consistent with the increase in the price of cotton, it is expected that the mills will stimulate yarn production and offer increased supplies for internal distribution.

When the Hon'ble Shri Harekrishna Mahtab was in Madras in January last, he had promised to supply this State 17,451 bales for January 1951, 18,801 bales for February 1951, 19,037 bales for March 1951, and thereafter the previous quota of 22,500 bales per month. It is expected that if these promised deliveries are made these quantities together with about 400 bales of foreign yarn allowed to be imported, and imports of art silk yarn will stand the handloom industry in the State in good stead.

[17th April 1951]

The quantities promised for January 1951 by the Hon'ble Minister have not been received in full. Only 15,164 bales against 17,451 bales have been supplied. The question of making good the short supplies and of taking action against such of those mills who have not offered their production against the running releases of the Textile Commissioner, Bombay, as also the question of arranging for supplies of more cotton in cases where this is the reason for the short delivery are already under correspondence with the Government of India.

In a few districts * where distress was greatest Government have distributed cash doles to alleviate the distress of the weavers as an immediate measure pending the opening of relief works or finding suitable employment to the weavers. This Government have already acquainted the Government of India with the grave situation facing the handloom weavers in the State for want of adequate supplies and are sparing no efforts to relieve the weavers from their present plight.

The Government of India argue that the available supplies should be equitably shared among all the States in the Union, that the weaving mills cannot be starved of yarn supply to the point they close down and throw up another serious labour problem. It is pointed out that Madras has always had more than its share of 26·05 per cent of the free yarn available.

The All-India Standing Handloom Committee recommended that 100,000 bales might be reserved for the handloom industry. Taking into account the partition of India, the minimum requirements of the handloom industry in this State have been estimated at 29,780 bales per mensem exclusive of 3,100 bales to other miscellaneous consumers. This Government have pressed upon the Government of India to allot this quantity on the ground that handlooms have increased since its share was last fixed and that in any case Madras has developed the handloom industry on a scale that the weavers have become solely dependent on it. A fresh census of active handlooms and powerlooms is in progress and after the figures become available the question of increasing the quota of this State will be taken up with the Government of India.

Yarn distribution.—The distribution of yarn in the State is made under the general control and supervision of the Director of Controlled Commodities. The Collectors are in charge of distribution in the districts.

The mills are expected to give their offers to the Director of Controlled Commodities by the 7th of every month on the basis of anticipated production during the month. From the total offers, the quantities allotted to (1) consumer quota-holders, (2) miscellaneous consumers like producers of ropes, nets, tapes, etc., and (3) the Fisheries department are deducted and the balance is divided between the co-operative societies and the licensed dealers in the ratio of 36 per cent and 64 per cent respectively. The allotment to the Co-operatives is made in bulk in favour of the Madras Handloom Weavers Provincial Co-operative Society for distribution among co-operative societies in the different districts.

* Krishna, Salem, West Godavari, Madurai, Ramanathapuram, Guntur and Chittoor.

[17th April 1951]

The allotment to the trade channels is lifted by the State Nominees and distributed to the dealers in the different districts strictly according to the percentage for the district fixed at the beginning of the controls on the basis of the number of looms in the district any variation in the number of looms being assumed to be more or less in the same proportion in all districts.

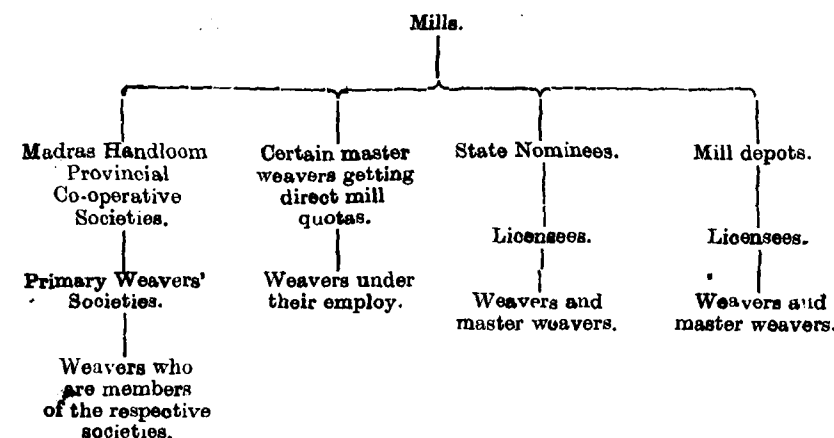
With a view to ensuring that at least the limited supplies actually reach the genuine consumers, informal rationing of yarn has been introduced in all the districts, and yarn is distributed on the production of identity cards issued to each handloom weaver for the purpose. The supplies allotted to the districts are distributed among all the weaving centres equitably according to the number of looms and on the advice of the Yarn Advisory Committee constituted for each weaving centre. Supplies to the districts are subject to the variation depending on the actual supplies received in the month. If the precise counts of yarn are not available, counts in the nearest count group are supplied. Some districts have felt the strain more than others because of the greater distribution of weavers in towns where they have no opportunity for any subsidiary occupation. The allocations are made with due regard to these considerations as far as possible.

In the case of supplies to weavers who are members of co-operative societies, the yarn from the mills is lifted by the Madras Handloom Weavers' Provincial Co-operative Societies as already stated, and then distributed to the primary co-operative societies who in turn distribute the yarn to their member weavers. These weavers get 20 per cent more yarn than other weavers who are not members of co-operative societies and this has been allowed in consonance with the Government policy of encouraging the co-operative movement in this State. The quantity intended for distribution to other weavers through the trade is lifted from the mills by the State Nominees who have been selected for the purpose from among the yarn licensees in the interest of prompt lifting of bales without allowing them to lapse to the mills, and distributing them to the licensees in the district according to the instructions of the Collectors concerned. In respect of a few mills which have been for special reasons permitted to sell their production through their own depots at $6\frac{1}{2}$ per cent over the ex-factory price, the mills depots sell the yarn to the licensees direct.

The licensees, when they get instructions about allotments from State Nominees should promptly pay 25 per cent of the value of bales as advance if demanded by State Nominees and lift the bales. Delay in the payment of advance or in lifting of bales will entail forfeiture of their right to get future supplies. They will distribute such yarn to weavers and master weavers direct on the basis of identity cards under the informal rationing scheme. In a few cases some master weavers (consumer quota holders) who have been getting quotas direct from mills in the last control period have been allowed to get yarn direct from mills in the present control also and to distribute the same to the weavers under their employ.

[17th April 1951]

The following chart shows the links in the chain of distribution of yarn from mills to consumers at present :—



State Nominees and the dealers hold licences under the Madras Yarn (Dealers) Control Order, 1948. Under this order the dealers are bound to distribute yarn according to the instructions of the Collector of the district concerned and or the Director of Controlled Commodities. The Control Orders are administered by the Collector with the help of textile staff in his office and the Anti-Blackmarketing Police in each district. The Government of India Enforcement staff consisting of a Deputy Director of Enforcement at Coimbatore and one Assistant Director of Enforcement at Madras also help in the administration of Control Orders and detection of blackmarketing and other violations of Control Orders and take necessary action against the delinquents in consultation with the concerned authorities.

Profit margins.—The margin of profit fixed by the Textile Commissioner, Bombay, is $12\frac{1}{2}$ per cent over the ex-mill prices of yarn which are also fixed by him. The margin of profit fixed by this Government is 7-13/16 per cent over the ex-mill prices of yarn besides sales tax and transport charges subject to the condition that the cost to the consumer does not exceed $12\frac{1}{2}$ per cent fixed by the Textile Commissioner, Bombay. This margin is divided between the State Nominee and the licensee as follows :—

State Nominee	...	...	...	...	1-9/16 per cent.
Licensees	...	...	...	...	$6\frac{1}{2}$ per cent.

In the case of certain mills permitted to sell yarn at a margin of $6\frac{1}{2}$ per cent through their depots, the licensees purchase yarn at $6\frac{1}{2}$ per cent and sell the same with a margin of 1-9/16 per cent to the weavers, so that the cost to the consumer remains the same, i.e., 7-13/16 per cent over ex-mill price. But in the case of weavers within the co-operative fold, they get the yarn at 4-11/16 per cent over the ex-factory price plus sales tax. (This margin is inclusive of transport and other incidental charges.)

[17th April 1951]

APPENDIX III.

[Vide item III (2) at page 1004 supra.]

L.A. BILL No. 13 OF 1951.

(As passed by the Assembly.)

A Bill to amend the Madras Village Panchayats Act, 1950.

WHEREAS it is expedient to amend the Madras Village Panchayats Act, 1950, for the purposes hereinafter appearing: **Madras Act X of 1950.**
It is hereby enacted as follows:—

1. This Act may be called the Madras Village Panchayats (Amendment) Act, 1951.

2. (1) In the Madras Village Panchayats Act, 1950 (hereinafter referred to as the said Act), to section 71, the following provisos and Explanation shall be added, namely:—

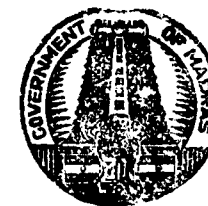
“ Provided that for the year in which the provisions of this Act are brought into force and for the next succeeding year, the Government may set apart under this section such sum as they deem fit not being more than twelve and a half per cent of the total land revenue (including water-cess) collected in the State during that year :

Provided further that a Class II panchayat constituted for the first time after the 31st day of December in any year, shall not be entitled to any grant under this section in respect of that year.

Explanation.—In computing the total land revenue for the purposes of this section, the revenue derived by the Government from estates which have been notified under section 1, sub-section (4), of the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948, over and above the peshkush, quit-rent, jodi or other amount of a like nature which would have been due to the Government from the landholders if the estates had not been so notified, shall not be taken into account so long as the revenue so derived is, in the opinion of the Government, required for meeting the compensation payable under that Act in respect of those estates.”

(2) The amendment made by sub-section (1) shall be deemed to have been made in the said Act, immediately before the passing thereof.

Issued—12-6-1951



3917

LIST OF AGENTS FOR THE MADRAS GOVERNMENT PUBLICATIONS.

IN CITY.

CITY BOOK COMPANY, Madras.
HIGGINBOTHAMS, Madras.
P. VARADACHARI & Co., Madras.
THE SOUTH INDIA SAIVA SIDDHANTHA WORKS PUBLISHING SOCIETY, LIMITED, Madras.
VENKATARAMA & Co., Madras.
V. PERUMAL CHETTI AND SONS, Madras.
ACCOUNT TEST INSTITUTE, Egmore, Madras.
V. RAMISAMY SASTRULU & SONS, Vavilla Press, Madras.

IN MUFASSAL.

THE EDUCATIONAL SUPPLIES COMPANY, R.S. Puram, Coimbatore district.
D. SREER KRISHNAMURTHY, Ongole, Guntur district.
K. P. AHMED KUNHI & BROS., Cannalore, Malabar district.
THE DECCAN PUBLISHING HOUSE, Kozhikode, Malabar district.
E. M. GOPALAKRISHNA KONE, Madurai, Madurai district.
A. VENKATASUBBAN, Vellore, North Arcot district.
K. BHOJA RAO & Co., Mangalore, South Kanara district.
U. B. MENNON & SONS, Mangalore, South Kanara district.
SRINIVAS & Co., Kumbakonam, Tanjore district.
S. KRISHNASWAMI & Co., Tiruchirappalli, Tiruchirappalli district.
P. N. SWAMINATHA SIVAN, Pudukkottai, Tiruchirappalli district.
V. S. VASAN & Co., Tirunelveli, Tirunelveli district.
M. SESHACHALAM & Co., Masulipatnam, Krishna district.

IN OTHER STATES.

BANVARILAL JAIN, Agre.
BENARES BOOK CORPORATION, P.O. Lanka, Benares.
NEW BOOK COMPANY, Bombay.
D. B. TARAPOREWALA SONS & Co., Bombay.
THACKER & Co., LTD., Bombay.
N. S. WAGLE, Girgaon, Bombay.
THE BOOK COMPANY, Calcutta.
LAW BOOK SOCIETY, Calcutta.
THACKER SPINK & Co., Calcutta.
R. CAMERON & Co., Calcutta.
HYDERABAD BOOK DEPOT, Hyderabad.
OSMANIA UNIVERSITY STUDENTS' CO-OPERATIVE BOOK DEPOT, Lallaguda P.O., Hyderabad (Deccan).
BHAWANI & SONS, New Delhi.
JAIN BOOK AGENCY, New Delhi.
INTERNATIONAL BOOK SERVICE, Poona.
INTERNATIONAL BOOK HOUSE, Trivandrum.

MADRAS LEGISLATIVE COUNCIL DEBATES

OFFICIAL REPORT

WEDNESDAY, 18TH APRIL 1951

VOLUME IV—No. 16

PRINTED BY THE SUPERINTENDENT
GOVERNMENT PRESS
MADRAS
1951

PRICE, 4 annas

C O N T E N T S

	PAGES
I Questions and Answers	1057-1064. 1123-1128
II Acknowledgment of Resolution by the Secretary to the State Legislature	1064
III Non-Official Business— Resolution re Admission to Government Professional Colleges and Appointment to Services	1064-1124

THE MADRAS LEGISLATIVE COUNCIL.

Wednesday, the 18th April 1951.

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

I.—QUESTIONS AND ANSWERS.

STARRED QUESTIONS.

Recommendations of the Retrenchment and Reorganization Committee.

* 218 Q.—SRI R. SURYANARAYANA RAO: Will the Hon. the Minister for Finance be pleased to state—

(a) the number of Gazetted and Non-Gazetted posts abolished as a result of the recommendations of the Retrenchment and Reorganization Committee and the economy effected thereby;

(b) the number of Gazetted and Non-Gazetted posts created since the Committee reported and the additional expenditure incurred on that account; and

(c) whether the Government have under consideration proposals for further retrenchment?

THE HON. SRI B. GOPALA REDDI:—“(a) The number of posts abolished up to the end of June 1950 is as follows:—

Gazetted posts	...	...	...	...	46
Non-gazetted posts	...	...	...	...	3,293
Total	...	...	...	...	3,339

“The amount of savings effected was Rs. 25.91 lakhs per annum.

“A statement* showing details by Departments is placed on the table of the House. Besides, retrenchment has been effected in staff in the Secretariat, Offices of Heads of Departments, and other offices to the extent of 12½ per cent. The saving effected by this means amounted to about Rs. 25.35 lakhs; see answer to Legislative Council Question No. 91, dated 18th January 1951.

“(b) New posts have been created to cope with the increase in work in some departments and to meet temporary needs. The many development schemes and the Grow More Food Schemes introduced from year to year have inevitably involved the appointment of additional staff. The collection of particulars in regard to all this additional staff would involve considerable time and labour which would be disproportionate to the public interests that may be served thereby.

[18th April 1951]

" (c) The following further retrenchments have since been effected :—

	Savings per annum.
	RS.
	LAKHS.
(1) Disbandment of marketing establishment.	0.12
(2) Replacement of 817 firka supply officers and peons by 220 Assistant Taluk Supply Officers and peons	8.29
(3) Abolition of the post of Forest Engineering staff	0.22 "

SRI R. SURYANARAYANA RAO :—" Sir, in answer to clause (b) the Hon. Minister stated that it would involve considerable time and labour which would be disproportionate to the public interests that might be served thereby. May I ask, Sir, why not at least the number of posts and the amount involved be given? "

THE HON. SRI B. GOPALA REDDI :—" It involves all the departments of the Government. It means lot of unnecessary labour."

Educational institutions affected by the Zamindari Abolition Act.

* 219 Q.—SRI B. BHIMA RAO : Will the Hon. the Minister for Land Revenue be pleased to state—

(a) the Educational Institutions (Colleges, High Schools, Veda Patasalas, etc.), in the State, which are affected by the passage of the Zamindari Abolition Act (Act XXVI of 1948) and the Reduction of Rent (Act XXX of 1947);

(b) the authorities managing the institutions prior to the Government taking over the management of the Estates concerned;

(c) the amounts that have been paid by the Government in each year since 1948, to make good the deficit; and

(d) whether the Government are now continuing the management of the institutions and if so, the amounts they are spending annually for the continuance and maintenance of the institutions?

THE HON. SRI H. SITARAMA REDDI :—" (a) & (b) A statement* is placed on the table of the House.

" (c) The hon. Member is apparently referring to the amounts payable by the Government under section 5 of the Rent Reduction Act to educational institutions owning estates, to compensate them for the loss sustained by them in the income of these estates due to the reduction of rents effected under the provisions of the Act in these estates. Under the rules framed under the Rent Reduction Act, the institutions have to send their applications for payment of the amounts with

* Printed as Appendix II on page 1128 infra.

18th April 1951]

the necessary particulars to the Government through the District Collector concerned. No such application has so far been received by the Government from any educational institution.

" (d) Of the institutions mentioned in the answer to clauses (a) and (b), only two, viz., the M.R. Sanskrit College, Vizianagaram and the M.R. Music College, Vizianagaram, have been taken over by the Government for maintenance and are maintained at their cost since 7th September 1949. The Government have spent Rs. 39,424-2-3 till 31st December 1950 on the maintenance of these two institutions."

SRI R. SURYANARAYANA RAO :—" Is it the opinion of the Government that because the institutions affected have not put in their application to make up the loss in income they are satisfied with the reduced emoluments they receive for the maintenance of these institutions? What efforts have the Government made to bring to the notice of these institutions the proposal of the Government that they would make good any loss sustained by them? "

THE HON. SRI H. SITARAMA REDDI :—" Sir, it is an Act of the State. It is expected that institutions know the provisions of the Act. If applications come in, we will certainly consider them with reference to the Act."

SRI B. BHIMA RAO :—" Are the Government aware, Sir, that the income of the Ramakrishna Mission High School and the Pennathur Subramania High School is now very much reduced on account of the application of the Act? "

THE HON. SRI H. SITARAMA REDDI :—" I have no more information than what I have furnished."

SRI B. BHIMA RAO :—" Are the Government satisfied that the income that they are getting at present is very much reduced? "

THE HON. SRI H. SITARAMA REDDI :—" I have no information."

Relief to Handloom Weavers.

217 Q.—(Main question answered on 17th April 1951.)

JANAB K. T. M. AHAMED IBRAHIM :—" Sir, in view of the admitted increase in the quota allotted to this State from the All-India pool, may I know whether the Government are satisfied that there is a diminution in the distress among the handloom weavers? "

THE HON. SRI C. PERUMALSAMI REDDI :—" There is some relief now, but not complete relief."

JANAB K. T. M. AHAMED IBRAHIM :—" Is it not a fact, Sir, that reports are almost being received daily that there is distress and starvation among the weavers, and there are also satyagraha marches? "

[18th April 1951]

THE HON. SRI C. PERUMALSAMI REDDI:—"Not now. There was some satyagraha, but now there is some satyagraha only at Madras."

JANAB K. T. M. AHAMED IBRAHIM:—"Is it not a fact, Sir, that satyagraha is not taking place on account of the action taken by the police and not on account of the relief granted to the weavers by the Government?"

THE HON. SRI C. PERUMALSAMI REDDI:—"The police prevent people coming out in a procession if they do not have the licence. If they have the licence to come out in a procession, I do not know whether the police can then object. They are prevented because they do not have the licence."

JANAB K. T. M. AHAMED IBRAHIM:—"Sir, there is distress among the weavers, and the weavers are anxious to make representations to the Hon. Minister and other authorities concerned. They are coming from even places like Chittoor to make representations to the Government. The distress is not only in Madras. People are coming from even places like Chittoor."

THE HON. SRI C. PERUMALSAMI REDDI:—"I know, Sir, they have been financed, and to justify the collections made, they have come here. Representations have been made to the Government. The Government are fully aware of the distress, and they are taking action in the matter."

SRI B. BHIMA RAO:—"Sir, if the distress is prevalent in all the districts of the State, what steps the Government are taking to secure an equitable distribution of the yarn?"

THE HON. SRI C. PERUMALSAMI REDDI:—"All the available yarn is distributed equitably."

DR. SYED TAJUDDIN:—"Sir, is not all the trouble and distress due to the scarcity of yarn to meet which Government have not made arrangements?"

THE HON. SRI C. PERUMALSAMI REDDI:—"We are making arrangements to get yarn. We must get yarn from the All-India pool. Whatever is got is distributed equitably. We are entitled to 26.05 per cent of the All-India pool. This is being distributed to the districts."

JANAB K. T. M. AHAMED IBRAHIM:—"Are the Government satisfied that our State is entitled to only 26.05 per cent of the total yarn? May I draw the attention of the Hon. Minister to the fact that this percentage is based on the report of the fact-finding committee presided over by Dr. Thomas? Is it not a fact that that report is faulty on the ground that it is not based on facts and that the actual number of hand-looms in this State is underestimated?"

THE HON. SRI C. PERUMALSAMI REDDI:—"No, Sir. The distribution is made on the report of the fact-finding

[18th April 1951]

committee which put the percentage at 26.05. We are pressing on the Government of India that the percentage must be raised to 38 per cent."

JANAB K. T. M. AHAMED IBRAHIM:—"On what basis?"

THE HON. SRI C. PERUMALSAMI REDDI:—"On the basis of the figures available now."

JANAB K. T. M. AHAMED IBRAHIM:—"Is it not a fact then that the number of handlooms is much more than what is estimated by the fact-finding committee?"

THE HON. SRI C. PERUMALSAMI REDDI:—"We must pay some regard to the report of 1945. It is only on that basis we press our needs. We are collecting statistics about the actual number of handlooms in our State now, and as soon as we get the figure, we will press upon the Government on the basis of that figure."

JANAB K. T. M. AHAMED IBRAHIM:—"Are not the Government satisfied that the figures given in the 1945 report are not quite correct, and that the actual number of handlooms is much more than the figure mentioned in the report?"

THE HON. SRI C. PERUMALSAMI REDDI:—"Unless and until we get the actual figures, we must proceed on the basis of the report of 1945."

SRI R. SURYANARAYANA RAO:—"Sir, while we are grateful to Government that they are trying to get increased quantities of yarn to this State (we find from the statement a steady increase in the supply of yarn to this State), may I know what was the reply of the Government of India, when it was pointed out to them that we were entitled to 26.05 per cent of the total yarn? They are giving only 22,500 bales to us."

THE HON. SRI C. PERUMALSAMI REDDI:—"Sir, 26.05 per cent of the All-India pool is 22,500 bales."

SRI R. SURYANARAYANA RAO:—"In reply to clause (d), it is seen from the statement that weavers who are members of co-operative societies are allowed to draw 20 per cent more yarn than other weavers. In view of the fact that distress prevails in general among all weavers and mostly among those who are not members of co-operative societies, will the Government consider the withdrawal of the concession to weavers who are members of co-operative societies and distribute the yarn among all weavers equally?"

THE HON. SRI C. PERUMALSAMI REDDI:—"I find it is not possible to do it now, but it is only a small concession to co-operative societies."

JANAB ABDUL LATIF FAROOKHI:—"Are the Government aware that this satyagraha is not an engineered one, but that the people are actually feeling the distress, and they are coming in *jathas* to the City from the various districts?"

[18th April 1951]

THE HON. SRI C. PERUMALSAMI REDDI :—“ I do not agree with the views of the Leader of the Opposition.”

JANAB K. T. M. AHAMED IBRAHIM :—“ May I point out, Sir, that there is satyagraha in almost all the districts, and that people are coming to the City even from places like Chittoor? Is the Hon. Minister convinced that all these satyagraha marches are engineered ones and that they are financed by interested people? If so, will the Hon. Minister explain to us the ulterior purpose in engineering these activities.”

THE HON. SRI C. PERUMALSAMI REDDI :—“ I cannot explain the purpose for which it is engineered. But to some extent, it is engineered.”

11-15 a.m. SRI N. VENKATACHALAMJI :—“ May I know, Sir, what the Government have done with regard to the demands of the satyagrahis? ”

THE HON. SRI C. PERUMALSAMI REDDI :—“ The question is being examined.”

SRI S. JAYARAM REDDI :—“ Are the Government satisfied that yarn produced in the various districts in the State is completely procured? ”

THE HON. SRI C. PERUMALSAMI REDDI :—“ Yes, Sir.”

SRI N. VENKATACHALAMJI :—“ With regard to the answer to my question, may I know, Sir, how long the Government will examine the matter? ”

THE HON. SRI C. PERUMALSAMI REDDI :—“ It will take some time; I cannot tell the exact date.”

JANAB K. T. M. AHAMED IBRAHIM :—“ May I know, Sir, what the Government feel about the satyagraha mentioned in the memorandum submitted to the Hon. the Prime Minister of the Indian Union through the Hon. the Chief Minister of our State by the Madras Provincial Handloom Weavers' Congress, Nidubrole, Guntur district? ”

THE HON. SRI C. PERUMALSAMI REDDI :—“ The staging of satyagraha is mentioned in the memorandum, a copy of which has been given to the Hon. the Chief Minister.”

JANAB K. T. M. AHAMED IBRAHIM :—“ Sir, does the Hon. Minister think that the satyagraha offered to be started from the 16th April before the Secretariat buildings if their grievances are not redressed, is the action of mischief-mongers? ”

THE HON. SRI C. PERUMALSAMI REDDI :—“ Yes Sir.”

JANAB ABDUL LATIF FAROOKHI :—“ Has there been any breach of peace on account of the satyagraha? ”

THE HON. SRI C. PERUMALSAMI REDDI :—“ Not to my knowledge, Sir.”

[18th April 1951]

JANAB K. T. M. AHAMED IBRAHIM :—“ May I know what yard stick is used to measure the activities of these people and call them mischief-mongers? ” (Laughter.)

SRI R. SURYANARAYANA RAO :—“ Sir, in view of the fact that the weavers who are members of co-operative societies are allowed to draw 20 per cent more yarn than other weavers, may I suggest to the Government, as a measure of relief, to consider the desirability of releasing this yarn for other weavers, so that the distress caused by the shortage of yarn may be mitigated to some extent? ”

THE HON. SRI C. PERUMALSAMI REDDI :—“ Yes, Sir, it will be considered.”

JANAB ABDUL LATIF FAROOKHI :—“ Sir, are the Government going to receive any deputation of the satyagrahis so that they may know what exactly they want and be in a position to afford some relief? ”

THE HON. SRI C. PERUMALSAMI REDDI :—“ The Government are fully aware of their demands and they are examining them.”

JANAB K. T. M. AHAMED IBRAHIM :—“ Is there any proposal to export yarn to other places like Burma on a barter basis? ”

THE HON. SRI C. PERUMALSAMI REDDI :—“ No, Sir.”

JANAB K. T. M. AHAMED IBRAHIM :—“ Is it a fact, Sir, that some such apprehension has been expressed by the representative appointed by this Government to make a representation to the Union Food Minister? ”

THE HON. SRI C. PERUMALSAMI REDDI :—“ Not to my knowledge, Sir.”

DR. SYED TAJUDDIN :—“ Does the Hon. Minister think that this Government are omniscient and that, therefore, no representation is necessary from any quarter? ”

THE HON. SRI C. PERUMALSAMI REDDI :—“ I did not say so, Sir.”

SRI S. B. ADITYAN :—“ May I know, Sir, whether cash doles are given in any other place? ”

THE HON. SRI C. PERUMALSAMI REDDI :—“ No, Sir.”

SRI C. VEERABHADRA RAO :—“ May I know, Sir, whether the full allotments have been received? ”

THE HON. SRI C. PERUMALSAMI REDDI :—“ I did not say that the full allotment has been received.”

JANAB K. T. M. AHAMED IBRAHIM :—“ May I know, Sir, whether while allotting yarn to particular weaving centres, care is taken to see that yarn of the particular count used in that area is given? ”

THE HON. SRI C. PERUMALSAMI REDDI :—“ Yes, Sir, to the extent possible.”

[18th April 1951]

JANAB K. T. M. AHAMED IBRAHIM :—" May I point out that if the particular count of yarn is not given, there is no use of allotting yarn of any other count, because it cannot be used by the weavers in that area? "

THE HON. SRI C. PERUMALSAMI REDDI :—" If the particular count of yarn is not available, weavers are prepared to take yarn of the nearest count available."

JANAB K. T. M. AHAMED IBRAHIM :—" Sir, is it possible that on account of such variation in the count of yarn they may be forced to sell the yarn in the black-market? "

THE HON. SRI C. PERUMALSAMI REDDI :—" That I can't say."

JANAB ABDUL LATIF FAROOKHI :—" Does the Hon. Minister think that the situation is becoming serious on account of the satyagraha? "

THE HON. SRI C. PERUMALSAMI REDDI :—" That question must be put to the Hon. the Chief Minister."

SRI S. B. ADITYAN :—" May I know whether the yarn produced in this State is allowed to be exported to other States? "

THE HON. SRI C. PERUMALSAMI REDDI :—" As I have already said, the yarn is pooled together on an all-India basis and then distributed to the various States."

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

II.—ACKNOWLEDGMENT OF RESOLUTION BY THE SECRETARY TO THE STATE LEGISLATURE.

MR. CHAIRMAN :—" I have received the following letter from Sri D. K. V. Raghava Varma, Secretary to the State Legislature :—

' Allow me to thank you and the hon. Members of the Council for the Resolution eulogising the humble services rendered by me as Secretary to the State Legislature. Though I cannot claim the same intimate association with the present Council as with the present Assembly, I have the fortune of possessing a number of good friends in the Council. I am grateful to you, Sir, and all Members of the Council for past kindness and the recognition of what little I have been able to do as Secretary to the State Legislature.' "

III.—NON-OFFICIAL BUSINESS.

RESOLUTION *re* ADMISSION TO GOVERNMENT PROFESSIONAL COLLEGES AND APPOINTMENT TO SERVICES.

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" Mr. Chairman, Sir, I move—

"That this House recommends to the Government in view of the decision of the Supreme Court in relation to what is known as the Communal G.O. to adopt such measures as

RESOLUTION *re* ADMISSION TO GOVERNMENT PROFESSIONAL COLLEGES AND APPOINTMENT TO SERVICES 1065

18th April 1951] [Sri M. D. T. Kumaraswami Mudaliyar]

are necessary for admission in the Government professional colleges and appointment in Government services as will conduce to the welfare of all classes of citizens.'

" Sir, on the 2nd of April 1951, I made a request to the Hon. Chairman to grant me permission to move the Resolution. Since the matter was then *sub judice*, I was not permitted to move it. I was given the option to move it after the judgment was delivered by the Supreme Court.

" Since the time before me was too short, I requested the Hon. Chairman to waive the 15 days' notice under Rule 118 of the Council Rules in consultation with the Member of the Government and admit the resolution for discussion during the present session as the matter was a very vital and important one.

" I am very thankful to you, Sir, and the Member of the Government for having given me this opportunity. Sir, it is a very well-known fact that there is widespread agitation in the minds of the public on the subject. Ever since the Government Order was introduced, there was fair and reasonable representation of all communities in every direction, both in educational institutions and in public service.

" Unless Article 16 of the Constitution of India is amended suitably, it will work a great hardship and result in disaster. Till then I request this Government to adopt such measures as are necessary for admission to the Government professional colleges and appointment to Government service as will conduce to the welfare of all classes of citizens.

" Perhaps in the North there may not be such difficulties as we have in our State and, therefore, it is very necessary that early steps must be taken to remedy the defect.

" The Government Order was passed in 1927 and it was given effect to all these years. It gave an inducement to each community to study and get their due representation. The Government Order was applicable in the matter of promotion from one cadre to another. There was also a 50 per cent reservation for direct recruitment. If it is a question of merit alone, certain communities will have no chance of getting in at all for ever.

" If the Government are prepared to open as many colleges as are necessary to admit all applicants, I am of opinion that the Government Order is not at all necessary. But as matters stand at present, we know perfectly well that though the Government may be pleased to open colleges to meet the demand, they cannot do it for want of finance and hence the Government Order is very necessary.

" Securing of high marks alone will not lead to success in life.

" Sir, I am sure a great majority of the hon. Members of this House will agree with me in the matter and I request them to lend their wholehearted support to this resolution."

[18th April 1951]

JANAB ABDUL LATIF FAROOKHI :—“ Sir, I rise to second the resolution moved by my hon. Friend. I do not think a long speech on this subject is necessary. This Communal Government Order was passed in order that all communities might have opportunities of entering colleges and Government service. It was intended not only to help the minority communities but in the peculiar circumstances in which the people of this State are placed, it went a long way to help even the majority community. Sir, it was the majority community or the party belonging to the majority community that was in power that was responsible for the passing of this Communal Government Order. After the advent of Independence and after the coming into force of the Constitution of India, perhaps the difficulties that are encountered by the people of this State have not been taken into consideration on account of the fact that people who are in power in the Centre have little chance of realizing the difficulties of the people of this State. Conditions differ from State to State and in this State particularly the Communal Government Order is absolutely necessary. As I said, it is necessary not only for the minorities but even for the majority community. Now, what will be the position if we strictly adhere to the provisions of the Constitution and prevent people from entering colleges and Government service? No doubt merit is essential, nobody can question that. But I think merit alone is not the criterion to judge things. I have got my own peculiar views about merit. The question of merit should not be applicable to a particular State or a particular country but to outside places also. I mean, we will have to select candidates from outside also. We can bring people from other countries and give them all important jobs. There may be cleverer and more intelligent people outside than in this country. Perhaps there may be Engineers having greater merit in other countries. But we do not allow those people to come into our country and occupy positions of responsibility and power in this country. Therefore, it must be understood that along with merit we have got certain consideration also which have to be taken into account, so that our own people may have an opportunity to serve our country. If we are not going to allow people from other countries with greater merit to come into this country and if we are not going to give them preference in the matter of jobs, why should we not apply the same principle within the State itself and allow some candidates to enter the professional colleges and Government service, though they may not possess as much merit as some other candidates? I feel that if we do this, we will be doing only bare justice to the people and it is not directed against any particular community or class of people. We only want that there should be a fair distribution of opportunity to serve the country among the people both in the matter of admission to professional colleges and appointment to Government service. Such being the case, it is necessary that this Communal Government Order should be continued at least in our State. Sir, the hands of the High Court of Madras or the Supreme Court are tied. When once the Constitution is there, they cannot but decide according to the Constitution. Sir, the resolution of my hon. Friend only

18th April 1951] [Janab Abdul Latif Farookhi]

seeks to request the Government of India to amend the Constitution. The Constitution must be amended and it is going to be amended. The Constitution is made for the people and not the people for the Constitution. So, we have to amend the Constitution from time to time as and when it suits the convenience and necessities of the people. The Constitution cannot be a permanent one. As and when necessities arise, the Constitution has to be changed. I feel that my hon. Friend, Sri Kumaraswami Mudaliyar, is perfectly right in requesting the Government to adopt such measures as the necessary for admission in the Government professional colleges and appointments in the Government services as will conduce to the welfare of all classes of citizens. I therefore second the resolution.”

11-30
a.m.

MR. CHAIRMAN :—“ Motion moved—

“ That this House recommends to the Government in view of the decision of the Supreme Court in relation to what is known as the Communal Government Order to adopt such measures as are necessary for admission in the Government professional colleges and appointment in Government services as will conduce to the welfare of all classes of citizens.”

THE HON. SRI K. MADHAVA MENON :—“ Sir, I have to intervene in the debate at this stage to make the position of the Government clear regarding this resolution. So far as the Government are concerned, this resolution is a very, very modest resolution which gives absolutely no cause for any controversy. The resolution as well as the speech made by the hon. Member raises no controversy as the resolution simply says that the Government must take such measures as are necessary for admission in the Government professional colleges and appointment in Government services as will conduce to the welfare of all classes of citizens. There cannot be any controversy in respect of this resolution, unless one wants to put in unnecessary matters and create unnecessary troubles and bickerings and create a feeling of acerbity and thus add to the already sufficiently exacerbated feelings in the State. As I said, this is a very modest resolution. If it involves amending the Constitution or taking of other steps by the Government of India, we shall faithfully forward the speeches of the hon. Members as well as the resolution to the Government of India. As far as this Government are concerned, knowing the realities of the situation in this State, we have been feeling that there is sufficient ground and sufficient reason for doing equity to all. This is a thing on which I suppose nobody will differ. The Government are also of the view that there must be equity in the matter of appointments. We are also of the view that in the matter of admission to the professional educational institutions also, there must be equity. As far as the resolution is concerned, the Government will faithfully forward the same to the Government of India and we shall abide by whatever decision the House may arrive at in the matter. As regards the Members on this side of the House—I mean the Government side—I must make it clear that they have absolute freedom to think, speak and vote as they like in the matter. There is no party

[Sri K. Madhava Menon] [18th April 1951]

whip or party mandate in this matter and the Members are at liberty to think and act as they like. As far as the Government are concerned, the Ministers may not partake in the voting, if at all it comes to a question of voting. We shall certainly accept the resolution if passed by this House and this is the attitude of the Government towards the resolution. If there is anything else that the Government have to say after hearing the speeches of the hon. Members on the resolution, I will speak at a later stage."

SRI B. BHIMA RAO :—" I wish to speak last, Sir."

MR. CHAIRMAN :—" I have absolutely no objection to the order in which the hon. Member wishes to speak. But I do not find anybody getting up to speak first." (Laughter.)

SRI B. BHIMA RAO :—" Sir, I wish to speak after the hon. Gentleman Dr. Lakshmanaswami Mudaliyar's speech and also after hearing my hon. Friend Dr. Cherian who spoke in this House the other day when the annual discussion on the Budget took place."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" My speech shall not be affected by the speech of the hon. Member Sri Bhima Rao." (Laughter.)

* SRI R. SURYANARAYANA RAO :—" Mr. Chairman, Sir, I am sure you too would have noticed that during this short session of this Council, the Government have been much more accommodating than they have ever been. Whenever a resolution was put forward even at the last moment, they have waived notice. As against this, you may remember occasions when the Government tried to move a proposition to pass over a certain item. The Hon. Dr. Rajan, Leader of the House, once made a motion to pass over a certain inconvenient resolution on which there was even a controversy. It is a good sign and I hope it will continue so long as this Council continues."

MR. CHAIRMAN :—" Though the Hon. Dr. Rajan was the common factor, I think that Government was altogether a different Government."

* SRI R. SURYANARAYANA RAO :—" We are grateful and thankful to the Government for this opportunity, that they have given us. When I tried to refer to this question during the budget discussion the other day, you were pleased to say that as the matter was *sub judice*, it would be better if I did not refer to it. The present resolution moved by my hon. Friend Sri Kumaraswami Mudaliyar, as pointed out by the Hon. Minister for Law, is couched in terms to which nobody can take exception. But my hon. Friend the Leader of the Opposition was reading into the resolution much more than its terms. He dealt with what measures should be taken and all that. I think that it is for the Government to consider and formulate proposals and submit the same to the Government of India for their consideration. I hope the Government will forward the speeches that are made in this House along with their

18th April 1951] [Sri R. Suryanarayana Rao]

own suggestions to the Government of India for their consideration. Sir, the resolution deals with two questions. The first deals with admission into the Government professional colleges. It must have struck the hon. Members of this House why the question of admission into the Government Arts Colleges has not been raised here. Is it due to the policy followed by the Hon. Minister for Education but which is not followed by others? What is it due to? Sir, hon. Member Dr. Lakshmanaswami Mudaliyar sometimes considers me as communal-minded when I put a series of questions on this matter on the floor of the House."

THE HON. SRI B. GOPALA REDDI :—" When did he express that opinion? "

* SRI R. SURYANARAYANA RAO :—" I think he did once make that insinuation. I have got all the orders regarding admission to the professional as well as Arts Colleges of the Government. Perhaps hon. Gentleman Sri Bhima Rao did not anticipate that this question would come up, as otherwise, I am sure he too would have brought all the orders. In the matter of admission to the Government Arts colleges, this principle of communal order or preference to certain communities is being observed to a certain extent. But there have been no complaints. I am sure the Hon. Minister for Education has not received any complaints even from minority or majority communities in respect of admission to the Arts colleges to the extent he has received complaints in respect of admission to the professional colleges. The fact of the matter is that the Selection Committees are tied down in regard to the professional colleges. I have got the instructions issued by the Government in respect of admissions into the Arts colleges. The matter is left to the Principal of the colleges, who is now advised by an Advisory Committee. Except the Presidency College, I think all the other Arts colleges have got an Advisory Committee and I hope an Advisory Committee will soon be constituted in regard to the Presidency College also. The Principal is advised by this Advisory Committee to see that proper representation is given to all the communities. They do not prescribe that out of 14 seats 2 seats should be given to a particular community and 8 seats should be given to some other community. Sir, I happened to be a Member of the Advisory Committee of the Queen Mary's College. The point raised by my hon. Friend Sri Kumaraswami Mudaliyar is quite correct. We asked the Principal at the first meeting what would be the position if merit only was applied in regard to admission."

THE HON. SRI K. MADHAVA MENON :—" By merit you mean marks? "

SRI R. SURYANARAYANA RAO :—" Yes, merit means marks. We all knew what the position would be. Under the distinguished chairmanship of Dr. Dey, an educationist of great experience, we evolved a certain formula by which a higher percentage of marks in certain groups was fixed for Brahmans, a lower percentage of marks was fixed for the Non-Brahmans, for

[Sri R. Suryanarayana Rao] [18th April 1951]

Christians, we again increased the percentage of marks as they are really not backward but forward communities. I have got the whole file here to show how admission to that college was managed by the Advisory Committee and the Principal. I am sure the Hon. Education Minister has not received any complaint from any particular community that it has been neglected. As regards the Scheduled Classes, there was no trouble as we allotted to them all the seats to which they are entitled. I think 10 per cent of seats or so is allotted to them and all the seats were allotted to them. It was only a question of using the discretion of the Selection Committee and the Principal. All the trouble comes when the Government lay down a rule and restrain the Selection Committees from following the best course which they think fit in regard to admissions."

JANAB K. T. M. AHAMED IBRAHIM :—" They may violate the rules."

SRI R. SURYANARAYANA RAO :—" There is no question of violation. *Ad hoc* principles are evolved for the occasion. The whole difficulty regarding the professional colleges is that the instructions issued by the Government run to five to six pages and every year, these instructions are changed. Last year, there was a new change by which the Government reserved to themselves certain number of seats. I think the number was originally 6, it was later increased to 8 and it is 12 or so now."

MR. CHAIRMAN :—" Did the Government want to enter into the colleges?" (Laughter.)

* SRI R. SURYANARAYANA RAO :—" They put in their nominees for whom they reserve a certain number of seats. They put their nominees in these twelve seats on the ground of redressing inequities. All this trouble is created because the Government restrict the discretion of the Principals and the Selection Committees whom they constitute. Consistent with merit, adequate representation should be given to all communities. They should not, however, lay down that so many seats should be given to Non-Brahman Hindus and so many to Brahmans. After this Ministry came into existence, a new class, known as the Backward Non-Brahmans, has been created. I am sure the Hon. Chief Minister is being bombarded every day by Non-Brahmans with the request that they may be declared as a Backward Non-Brahman community so that they may get certain additional facilities."

THE HON. SRI P. S. KUMARASWAMI RAJA :—" There are people who want to be classified as even Scheduled Castes as they would get still greater facilities!"

SRI R. SURYANARAYANA RAO :—" All are agreed that opportunities should be given to all sections of the people so that there may be sufficient progress. Otherwise, the development of this State will be retarded. Just as the existence of the tribal people and our Scheduled Caste brethren who do not have proper education and whose economic conditions have not been developed

18th April 1951] [Sri R. Suryanarayana Rao]

to a satisfactory extent, retards progress, the people who are not given adequate facilities and opportunities will be a drag on the progress of any State. To that extent, we should give special attention to enable them to come up to the level of other communities and thus encourage an all-round progress of the State. There could be no objection to this. But, we have created all these problems, quarrels, recriminations, insinuations and all that. I am sure that even Sri Bhima Rao would not have been so much dissatisfied with what is going on in regard to the professional college admissions but for this four or five pages Government Order giving instructions to the Principals and the Selection Committees with regard to admissions. In this connexion, I may be permitted to read a portion of the instructions issued to the Principals of Government Arts colleges—

'The Principals of Government Colleges are requested, while making selections for admission to all classes in their colleges, to exercise the greatest care in seeing that due representation is given to Non-Brahmans, to all minority communities, to Muslims, to Scheduled Classes and to women.'

Unfortunately, women are also classified along with the backward communities. The instructions proceed as follows :—

'The fact that candidates from backward communities, do not possess equally high marks as candidates from forward communities should not stand in the way of deserving applicants from such communities being given due consideration.'

Sir, it is very cleverly worded. They have given discretion to the Principals to give due representation to the backward communities and at the same time without sacrificing merit also. The instructions proceed further—

'In the case, for example, of the Scheduled Classes and of Muslim women, very few of whom even reach the collegiate standard, special consideration should be shown. In cases of doubt, the Principals of Colleges may, if they consider it necessary refer the cases to the Director of Public Instruction for decision.'

"Admissions to the Queen Mary's College were made on this basis and it is better that we follow the same principle in the case of admissions to professional colleges also. The Hon. the Minister for Finance may remember that he once in a gusty stated that he would not carry out our suggestions even if the Constitution laid down principals to that end. Now perhaps he is not in a mood to indulge in such language."

THE HON. SRI B. GOPALA REDDI :—" That was perhaps to add spice to the debate. May I know in what connexion I said that—while speaking on the Services or Motor Transport or . . ."

MR. CHAIRMAN :—" Perhaps in connexion with sales-tax." (Laughter.)

* SRI R. SURYANARAYANA RAO :—" He deals with so many subjects, the Services, the Sales Tax, Motor Transport, etc. Whatever may be the decision of the Government of India or of this Government and whether the Constitution is amended or not, this is a very big question. It is doubtful whether in respect of a particular State the Government of India will be prepared to amend the Constitution by making a special provision of the kind they

[Sri R. Suryanarayana Rao] [18th April 1951]

have been asked to make, though such a thing is not mentioned in the resolution before the House. A quick decision on this matter will help us much because next June the time for admission comes. It is doubtful again whether the Government of India will be able to consider this question and come to a decision meanwhile. If we make representations, there may be other groups that may make counter-representations. The Government of India will not take up the question of amending the Constitution so easily, especially when it involves a change in the Fundamental Rights guaranteed by the Constitution. It may take sometime for them to act even if they want to act. Therefore, these communal acerbities must be put an end to in this State and it is possible to do so if we follow the lines on which admissions are made in Arts colleges. It may be that in certain colleges, the Selection committee gives a few more seats to a particular community. But in general, and I am sure the Hon. the Minister for Education will agree with me, there has been a certain amount of satisfaction among the people with regard to admissions to Arts colleges. I do not know whether hon. Members have seen a booklet which I have in my possession—the author of it is not known and I could not send him even a letter in acknowledgment—and which gives some facts about admissions to the colleges in the Madras State. It has been issued from Bangalore, printed at the Deccan Times Press, I think. The author has taken the trouble of collecting facts relating to the various communities that have secured admission. It is a kind of research, unbiased, though he has his own conclusions. I must say in fairness to him that he has done well. His figures show that certain communities are over-represented in colleges. His object, however, as he says, is to make people understand what the present situation is in regard to representation of the various communities in colleges and he appeals to the people not to be carried away by communal feelings but to examine the facts in a scientific manner and try to adjust the principles on which admissions can be made. It is a very interesting document. I am sure hon. Members must have got a copy of this. It is only as a result of this leaflet that I put a question to the Hon. the Minister for Education asking for facts about admissions. I find that the information supplied in this leaflet is almost the same as was supplied by the Government in reply to my question. The gentleman has taken the trouble to collect all the figures and I do not know how he managed to get such accurate figures. They are the same figures as were supplied in reply to my unstarred question. Perhaps hon. Members are not aware of these figures because unstarred questions do not attract the attention of the hon. Members as do the starred ones. Whatever may be the decision of the Government of India or the State Government, let them follow a scientific method. Let them not, however, ask for a quota of their nominees because that will embarrass the Selection Committee. Leave the whole matter to the Selection Committees; lay down general principles as has been done in the case of admission to Arts colleges. It would be interesting to know, Sir, how the

18th April 1951] [Sri R. Suryanarayana Rao]

percentage worked in the Queen Mary's College as a result of following this principle. The Brahmin community got much more than what they would have got if the Communal Government Order had been strictly applied. Merit was respected. Communities were respected. On the whole there was little discontent. It was because, I must say, in fairness to Dr. Dey, a man of great experience, that he guided our deliberations. He was all for merit but at the same time anxious for adequate representation to various communities. He said that so far as post-graduate and other advanced courses of instruction were concerned, merit should be the main consideration. Why, in fact, the Government themselves said later on that that must be so, in the instructions given for admission into the Arts Colleges.

“ Then, Sir, I go to the second part of the resolution dealing with the Communal Government Order. It is again a matter where it cannot be decided on what principle recruitment to the Services should be made. I cannot understand the principle enunciated by the Government. Why have they changed the number from 12 to 14? Why have the poor Indian Christians been bracketed with the Anglo-Indians? This Government have altered the Government Order in respect of all matters that required careful consideration. I would request the Government not to sit with folded hands, merely sending up a representation to the Government of India to amend the Constitution, but to tackle the problem successfully. Sit together, think over the problem, think like nationalists in the interests of efficiency of service and also in the interests of the general classes of citizens of our State. We want every citizen of this State should be given opportunity to serve this State as we want every citizen of this State to have opportunities for education. Let the Government formulate a scheme which will be acceptable to all. But they must do it in a practical manner, as people in charge of administration of a State and not by merely submitting recommendations to the Government of India. I find from the newspaper reports that the Government have already addressed the Central Government in the matter. It is an easy way of disposing of a very difficult question like this. It is very easy to say, ‘ this is what is happening here; our people are much agitated and, therefore, you must make provision in the Constitution regulating their admission to the colleges and Public Service ’. There again, the Government must convince the Central Government why they framed the Communal Government Order in the manner in which they did it. They must explain the point whether the Government Order is applicable only to initial recruitment or if it governs promotions also. There are cases in which certain communities other than the Brahman community have suffered. Even amongst the Non-Brahmans there are some communal bickerings and quarrels. In our land, Sir, unfortunately we have a large number of communities who are anxious to press forward their claims for preferment. The Resolution asks the Government to devise ways and take such measures as are necessary for regulating admission to professional colleges and Government Service as will conduce to the welfare of all classes of citizens in the

[Sri R. Suryanarayana Rao] [18th April 1951]

State. It has been declared by the Court that the method adopted by the Government was wrong and was against the principles of the Constitution. It will, therefore, be very difficult for this Government to convince the Government of India that they were right and the Central Government were wrong. Sir, there were a large number of M.Ps. from our State sitting in the Constituent assembly when this provision was being discussed. I am sure the Hon. the Minister for Finance was a member of the Constituent Assembly then. Why did he not raise his voice in protest and bring to the notice of the other Members of the Constituent Assembly the difficulties that he would have to face? Do you mean to say that he did not understand the relevant Article of the Constitution when it was discussed? We have allowed an opportunity to slip."

MR. CHAIRMAN :—" Why did the hon. Member leave out Janab Ibrahim? "

JANAB K. T. M. AHMED IBRAHIM :—" I did raise the point. I even then warned that this was going to happen. It has now come to happen."

SRI R. SURYANARAYANA RAO :—" I am sure he would have voiced his feelings; being a Member of the Muslim League, he would not be true to the principles of the Muslim League, if he did not protest against this and even against abolition of separate electorates. Sir, it will be very difficult for this Government to convince the Central Government about this matter. Meanwhile, let us not violate the principles of the Constitution."

MR. CHAIRMAN :—" Suppose the Government of India are not convinced. What does the hon. Member suggest? Will he suggest Satyagraha? " (Laughter.)

SRI R. SURYANARAYANA RAO :—" We must find out some ways. This morning my hon. Friend, the Leader of the Opposition was pleading for the Satyagrahis who were marching to the Legislature, the unfortunate handloom weavers. But I am not a believer in it. It is very difficult for anybody to offer any suggestion within such a short space of time. It is a matter that should be examined carefully. I would like hon. Members sitting on the Treasury Benches to forget that they belong to a particular community—I want my Friend, the Hon. Dr. Rajan, to forget that he belongs to the Brahman community—but think they are members of a Secular Government interested in the welfare of all the communities and consider this problem."

THE HON. SRI K. MADHAVA MENON :—" I would like to know what the insinuation is. He says that we must forget our respective communities. Is it not an insinuation that . . ."

MR. CHAIRMAN :—" It is not an insinuation."

SRI R. SURYANARAYANA RAO :—" It is not an insinuation as the Chairman has rightly understood me. I would like the problem to be solved quickly and on a just and equitable basis."

18th April 1951]

THE HON. SRI K. MADHAVA MENON :—" What is his suggestion? His statement is as a vague as the resolution."

SRI R. SURYANARAYANA RAO :—" Is it so easy of solution? It is not like sending a communication to the Government of India saying, 'restore the Communal Government Order.' It is easy for you to do so. But it is unfair to ask anybody to give—I mean including hon. Member Dr. A. Lakshmanaswami Mudaliyar—advice or to offer solution within a day. This is a matter in which no solution can be offered off-hand. A resolution was thrust on us last evening. Everyone is worried and I am sure the Members of the Government are also worried . . ."

THE HON. SRI P. S. KUMARASWAMI RAJA :—" We are not worried."

SRI R. SURYANARAYANA RAO :—" Sir, I have great pleasure in supporting the resolution. I would request the Government to adopt for admission to the Government professional colleges and for appointment in Government services such measures as are necessary and will conduce to the welfare of all classes of citizens in the State."

MR. CHAIRMAN :—" The hon. Member Sri Bhima Rao may now speak."

SRI B. BHIMA RAO :—" Sir, I may be permitted to speak after the hon. Gentleman Dr. Lakshmanaswami Mudaliyar speaks."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" Sir, I ¹² want to give the hon. Gentleman Sri Bhima Rao the pleasure to noon. reply to me and I hope he will reply to the debate and not to me in particular.

" Sir, no subject warrants a more careful and considerate treatment than this very important subject. One cannot deny that there has been a great deal of feeling in the country after the decisions of the High Court and the Supreme Court. At the same time let me make it perfectly clear, as one who has been intimately in touch with education and educational institutions for thirty years and over if not for forty years in my humble capacity, that I fully realize and appreciate the point of view of those who took the matter to the court of law. Let me state frankly that the parent who finds his son is not admitted into a college and who thinks he ought to have been admitted will certainly have a grievance that no amount of speech making, no amount of justification and no amount of rhetoric can possibly make him change his mind. It does not matter what other consequences flow but to the extent to which he has been denied the chance of educating his son in a particular manner or for a particular profession, the individual will certainly not be appeased simply because arrangements are to be made one way or the other. While I appreciate the point of view of the individual, there is a more important and fundamental principle that has got to guide us in these matters. When I say ' we ', I mean the State and the society in general.

[Dr. A. Lakshmanaswami Mudaliyar] [18th April 1951]

We cannot be ignorant of what is taking place all around us. We cannot shut our eyes to the actual facts of the case. Taking the facts of the case and having a view of the trend of events that will follow on the judgment of the Supreme Court, there has been a great deal of feeling amongst a very large section of the community. I may also state, if I will not be misunderstood, that persons of all communities and particularly of the community which was affected before the Supreme Court decision, have come and said: 'Is there no way out is there no solution for the state of things which if allowed to continue will increase the acerbity among the population.'

"You may remember, Sir, that when the draft of the new Constitution was being discussed in Parliament in May 1948, or the 3rd of May 1948, my esteemed friend who is now unfortunately not here for reasons you mentioned, Mr. Narayanaswami Naidu spoke about this particular point on a motion in this House and moved an amendment which in fact would have meant that the Draft Constitution should be changed in such a manner that Government will have some amount of discretion to see what they can do in regard both to admission to colleges and in regard to appointment to Government posts. That amendment, Sir, was carried unanimously by this House and I think my hon. Friend Sri Suryanarayana Rao was also a Member at that time. He did not raise any objection to it. I should like to know what action the Government took on that resolution, whether they forwarded it to the Constituent Assembly and to the President thereof and, if they did, whether they followed it up with their own views on the subject. If the Government have not done that, they were very remiss in rejecting the view point of the House which thoroughly discussed the subject.

"Sir, let me now come to the facts of the case. The hon Member Sri Suryanarayana Rao referred to a pamphlet. Most of us got the pamphlet and perused it. He incidentally referred to the position in regard to Arts colleges and tried to make out that so far as Arts colleges were concerned there was no difficulty at all, nobody felt aggrieved and so on. May I in a few words explain the position? The students did not hitherto depend upon the Government colleges for admission to several courses of study. Fortunately there were many managements which took up the position that unless they did something there was little chance of admission to certain sections of the community and therefore they made it possible for a large number of aided colleges to spring up all over the state in all Universities. At least in the Andhra University and certainly in the Madras University, the number of Government colleges in Madras State is a fraction compared to the number of aided colleges. Therefore it is that no question arose as to discrimination being made and a general principle being satisfied—which my hon. Friend Mr. Suryanarayana Rao seems to defend for reasons I do not know—it did not produce any acerbity. In regard to professional colleges he suggested in a way the

18th April 1951] [Dr. A. Lakshmanaswami Mudaliyar]

appointment of a selection committee which would bring about the consummation of the object much to be desired for and probably would completely prevent any criticism. May I say, Sir, that as one who was responsible—as Principal of a professional college it was my fault, it was a fault according to my hon. Friend Mr. Suryanarayana Rao—to have strongly pointed out to the then Government the undesirable nature of having selection Committees appointed for professional colleges? It was in the year 1937 when I was Principal of the Medical College. I stepped in soon after the selections were made by my predecessor and on the eve of taking leave prior to his departure to Europe, he bitterly complained that this selection committee proved so unfortunate that he could not hold up his head in regard to the selections made. Persons of various communities were selected on grounds which could not be reconciled with their achievements. Whatever that might be, it was then—the records in the archives of the Secretariat will bear out that fact—I put forward a suggestion which was incorporated in the Government Order that persons should be selected on a definite basis, that their records must be taken into consideration and that a certain amount of priority ought to be given. The Government of the day accepted the suggestion and the Government Order was passed then.

"May I, Sir, in this connexion refer to the small incident that occurred for which I was hauled up before the court by the parent of the student who was not selected for exercising the discretion given to the Principals of Colleges. After the admissions were over, in the year 1939 when I was still continuing to be the Principal of the Medical College, there was one vacancy. A fortnight after the admissions were almost closed a certain candidate, son of a medical man was coming and pestering me day in and day out to admit him in the college. I had sent out four letters to those who were in the order of priority. None of them accepted the seat offered. Then I felt, as the time had come when the admissions will have to be closed, this gentleman being the son of a medical man would have far more opportunities perhaps of following the profession and helping his father, and admitted him to the college. The boy I admitted had four marks less than the boy I did not admit. Let me say this that both of them belonged to the same community. The doctor is practising in Madras. I was hauled up before the court by the parent of the other boy and I had a very uncomfortable time of it for the first time in my life of 32 years of Government service to have to explain to the people why I admitted the particular boy. I do not know whether my action was ticked off or whether the record in the Surgeon-General's office shows a black-mark against me. Probably it may not come up to-day. People who talk of devising methods, finding a solution, sitting round talking over and possibly imitating Dr. Dey's procedure and hon. Member Sri Suryanarayana Rao's procedure do not understand that at present the difficulties are so great that nobody can challenge the decisions that

[Dr. A. Lakshmanaswami Mudaliyar] [18th April 1951]

are arrived at even in the court of law. Let me quote the Constitution Act itself because I feel that it would be well for us to know all the implications of the decision of the High Court—

‘No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.’

My hon. Friends must realize that it is not only the Government institution with which you will be concerned but every institution for which State funds are allotted cannot as a whole admit students except on a particular basis which basis whatever it might be must be a basis acceptable under law as fair and just. There should be no possibility of a Judge of any court saying that such and such is *mala fide* of the purposes of the Act or educational institution concerned. Now, Sir, hon. Members are aware that time and again when it came to a question of admission to professional colleges very many relevant issues were raised. Nobody was more vociferous and I entirely agreed with them then and agree with them now, my hon. Friends from the Rayalaseema area that there was a great deal of necessity to see that proper representation was given to Rayalaseema irrespective of conditions of merit. I fully share their view and for the proper development of all the areas I feel that it is absolutely necessary. Born, brought up and educated up to matriculation in the Ceded districts, one of the backward districts, I can quite realize why there should be no question whatsoever of permanent congenital difficulties in the case of those citizens not to come up as times go on. Let me take another example. For the Andhra area naturally a certain representation has been given by the Government, namely, 38 per cent. If this principle were to be given up, would it be possible for the Andhra Medical College at Visakhapatnam to get the admissions that it has been getting all these years? Let us face facts. There is no use thinking of a dreamland. This is not a country where we are writing a Constitution on a clean slate. We have two thousand years of tradition behind us and that tradition cannot easily be forgotten or effaced. Let me make it clear that if some principle which has been guiding us in the past is not allowed, then the Andhra Medical College would have got only a fraction of Andhras to study there. These are facts. If you want to know if these facts are correct or whether I am exaggerating, look up the figures for the past five years, applications received and admissions made into the professional colleges, whether it be medical or engineering or even agricultural college and work out those figures on what are known as principles of merit and then tell me whether I have been exaggerating or drawing a red herring across the scene. Now, I think, Government unfortunately committed an error in changing that Government Order that had been existence for over 25 years. That order was framed in the year 1927 as my hon. Friend said. That order was in existence during the first Congress Government under the Premiership of Hon. Sri C. Rajagopalachari who knew the pulse of the people of the State much better than others. That order was continued during the

18th April 1951] [Dr. A. Lakshmanaswami Mudaliyar]

regime of the advisers except for a change that was introduced when the Adviser Sri Ramamurthi was in charge of education portfolio. It was at that time that the linguistic division was also introduced, 38 per cent for the Andhra areas, nearly 51 per cent for the Tamil areas and about 9 per cent for the two districts of South Kanara and Malabar. This was unfortunate and I say deliberately that it was a gross mistake on the part of the Government to have changed the order and introduced other principles of districtwar representation and which I understand has now been given up. Any way the Government ought not to have interfered with that at all.

“Sir, now let me say a few words about merit and marks. My hon. Friend Sri Suryanarayana Rao said that merit and marks are co-terminus. I wish to refer to this aspect of the question because of the glamour raised around this. To-day unfortunately many students find an inflated value of their achievements because they all pass in first class. This year there were 500 first classes in the intermediate as against 22 in the year of grace when I appeared and I did not get a first class. I do not mind confessing that I did not get a first class in my matric because I got first class, not because I got it but because I did not merit to get the first class. I did not get a first class in the intermediate when 22 got first class, because I did not merit to get a first class.

“If, in those days when we were students, anybody could get up and say that one who got 377 marks was less meritorious than the other who got 427 marks, I do not know what would have been done in those circumstances. All were acknowledged students of merit. One of them is Dr. John Matthai, an Ex-Finance Minister of the Centre, and the others are Dr. C. R. Reddi, Mr. R. V. Krishna Iyer, and Dr. S. Radhakrishnan. The world acknowledges that they are all great people. But, to confuse marks with merit is the biggest tragedy under which we are suffering. That is not my opinion. Let me quote from the book ‘Discovery’ by Dr. Gregory, a well-known scientist. I think the book is available in the University Library and my hon. Friend Mr. Suryanarayana Rao may refer to it. Speaking about examinations and the question of merit, he said—

‘Success or failure at school or college supply no standards by which the promise of the future may be estimated. Originality of thought or achievement is not measurable by the same units as those of absorbing power of a prescribed pabulum, usually tested by a written examination. To be able to reproduce the words of others, or to shuffle mathematical symbols rapidly, may be creditable, but it is not to be compared with the power of originating ideas or devising new solutions to problems. A student may possess many examination certificates and yet be only a kind of text-book gramophone. Unless he acquires also the desire to see and do things independently he knows nothing of the scientific spirit which asks for new knowledge gained by individual inquiry.’

If this had been spoken by me, I would have been hauled up. Coming as it does from a person of irrefutable scientific knowledge, I do not think we can ignore it. Proceeding, he said—

‘The senior wrangler at Cambridge has often been an inferior man, from the point of view of productive mathematical science, to candidates lower on the list, because the examination tested merely the power of writing out the solutions of known classes of problems quickly and precisely. When Lord Kelvin was a

[Dr. A. Lakshmanaswami Mudaliyar] [18th April 1951]

student at Cambridge he produced several original papers in the higher branches of mathematics, yet he was beaten in the final examination and was placed second wrangler. The examiners themselves knew his great mathematical abilities, but the examination was a test of memory rather than of originality. Speaking of Kelvin (then named William Thompson), one of the examiners remarked to another "You and I are just about fit to mend his pens."

Sir, I need not pursue the matter further. I want to say this not because I do not appreciate merit or I do not stand for merit. The fact of it is that I have been pressing and pressing for higher standards and for merit; the merit that I conceive of is not merit of examination marks. Examination is not the solid achievement to the credit of any particular individual. Now, Sir, let me ask myself this question: 'Why is it that we get into this frenzy?' My hon. Friend said that the Members on the Treasury Bench including Hon. Dr. Rajan should not be communal-minded. May I say this frankly and freely, Sir? We are all communal-minded in that respect. Nobody is exempt. Those that want the abolition of the Communal G.O. and those that favour the retention of the Communal G.O. are all communal-minded in one respect or other. But, we have to think of this particular problem in a different manner. In this country, at present, at any rate, communities have to live lives of their own. Whatever one may say, so far as their social relations are concerned, members of a particular community have got to intermarry in that community. We may bring in a resolution that all castes, suffixes and prefixes, etc., must be removed but that will not change the state of society overnight. It will take time. I do not suggest that this could be petrified. My objection is that in the Constitution they tried to petrify it by saying that no person should be differentiated on the ground of caste, etc., etc., so that it may be a progressive feature of the Constitution. In view therefore of this restricted sort of social intercourse and other troubles in this country, people think how their sons and daughters will be and how their daughters could be eligible for husbands. This question all parents have to ask themselves. Are we so sure that this sort of differentiation is peculiar only to India? Let my Friend come round with me and I will show him that such a position is existing even in foreign countries. When I went to Scotland for the first time, I was surprised to find how the Scotchman reserves everything for his own country. He has his own sense of discrimination. This is so even in regard to those posts which are considered to be filled by men of the greatest ability. In the Faculty of Medicine, for instance, everybody who is to be appointed to the Professorial Chair must be a Fellow of the Royal College of Surgeons of Edinburgh. The hon. Gentleman Dr. Cheriyan is a distinguished Fellow of that College and I hope he will not contradict me when I say that the Fellowship of the Royal College of Surgeons in London is in no way inferior to fellowship of the Royal College of Surgeons of Edinburgh. But, a famous neurologist was declared ineligible on the sole ground that he had not got the Fellowship of the Royal College of Surgeons of Edinburgh and he had to go to Mr. Edwin Campbell before he

18th April 1951] [Dr. A. Lakshmanaswami Mudaliyar]

got his Fellowship. The reason was this. They wanted to reserve as far as possible all the posts for their own kith and kin.

"Sir, coming to the question of posts, it seems to me that here, as elsewhere, there must be a certain amount of discretion and a certain amount of relative understanding of the position. I am one of those who are very keen that there must be no injustice done to persons who have entered the service whatever might be the method adopted or the principle fixed for the initial recruitment. My hon. Friend Mr. Suryanarayana Rao referred to the fact that people in official positions sometimes have communal feelings so strong that they may not do justice to their subordinates. Sir, that is the unfortunate position today because of the extreme manner in which the communal conscience has been roused for one reason or another. What is the solution? I have already said that it would be futile on the part of the Government to adopt any measures to circumvent the decision of the Supreme Court and they will be only heading themselves for criticism in courts of law and the criticism will be all the greater. As it is, Sir, charges are being made against the Ministers almost every day in this and other States and if one had only time and leisure to peruse the many Pamphlets, Dailies, Weeklies, Monthlies, etc., that are inundating the market in spite of the so-called Newsprint Control, it could be seen that this has become one of the major industries of free and independent India."

THE HON. SRI B. GOPALA REDDI:—"Hear, hear."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"Sir, that is the position with which the Government are faced today. Let them not take their task too lightly or expect somehow or other to see that justice is done. They cannot. If they believe that for sometime it is necessary to see that all sections of the people are placed on a footing where after the initial effort they are able to rise by themselves, it is a matter that has to be thought of. What is happening in the educational field today? Large sections of the population who, in former days, would never have thought of educating their children, are now coming to understand the value of higher education. Are we going to deny them those facilities? We speak of equal opportunities. Where is the question of equal opportunity between my son and the barber's son? When my son goes home, he finds the same college atmosphere with a number of journals, pamphlets and weeklies and a big library. But, what does the barber's son find when he goes home? He will be asked to do household work and there may not be even a flickering light for him to read. There are many such people, not necessarily barbers, in many communities. There are agricultural labourers into whose homes the light cannot penetrate. Should we not think of these persons in a sympathetic manner to see that they too have opportunities which will enable them to rise up? Sir, my fundamental objection to a rigid Constitution such as ours is this and

[Dr. A. Lakshmanaswami Mudaliyar] [18th April 1951]

I was whole-heartedly supported in my view by the statement of a great constitutional lawyer Sir Ivor Jennings, Vice-Chancellor of the Ceylon University, 'The Constitution which is for all time should not take into consideration the ephemeral factors of social life of the community; justice must be found by the intelligent public and by the leaders of society in all spheres of activity'. So, Sir, it is all good on paper, but it shows a weakness that we are not able to assimilate the various factors that call for, sometimes, mutual adjustment. Are we not in a position to gather together men of goodwill and of all grades and find out a solution which in course of years will automatically solve this problem? Is it not justice, is it not fairplay, nay more, is it not a question of self-interest on the part of all of us to work for such an end rather than promote this great discord among large sections of the people? What does the illiterate voter know unless he has a son who has passed Matriculation or Intermediate? Let us take the case of the Vanniyakula Kshatriya community. They think that a great injustice has been done. Those who have had the advantage of being forward in the race for educational facilities should be the first to give consideration to those who have never had any opportunity. I do not suggest by any means that men with real talent should be prevented. But, Sir, as I said before, are we so sure that we are preventing people with real merit? Now, quite a number of people are dumped on these professional colleges, Medical and Engineering. Formerly there was one Medical College and one Engineering College. Now, there are five Medical Colleges and the Government have four Engineering Colleges under their control today, the fifth is at Kakinada in the Andhra University and the sixth, I hope, will materialize by some private management. Thus, today the number of seats available for all communities, as compared to six or seven years ago, is much larger than it was ever before. If some boys with merit are not admitted, it is for the parents to complain and they will be justified also. But, can the State which has got a greater responsibility say that? What will happen to the Andhra Medical College if the principle of proportionate representation is given up? I know that it will create a feeling utterly disharmonious from all points of view and the path of wisdom lies elsewhere.

-30
m. "Sir, I have spoken very frankly. I have never indulged in the art of speaking nice things on nice occasions and I do not propose to do so on this occasion. Holding a very responsible position as I do in the University, I feel all the greater responsibility. I should warn those who think of a bee-line in regard to one aspect of the question that there are other aspects also which deserve and call for consideration. How do you account for it? The hon. Member, Mr. Suryanarayana Rao had a cheap jeer at my hon. Friend, Mr. K. T. M. Ahamed Ibrahim and said that he had raised this point, because he is a Muslim Leaguer. If the same interpretation were given to the speeches and views of my hon. Friend, would he like it? Yet, we sit here and say that we

18th April 1951] [Dr. A. Lakshmanaswami Mudaliyar]

are brothers and that we are all-one. Sir, practice and precept must go hand in hand. Now, let me take that very community. There was hardly a Moplah Graduate ten years ago. What has changed the situation now? There are two factors. The late Mr. Statham practically gave them opportunity to get into the schools not on the grounds of merit but on grounds of de-merit. The Brennen college that has come into being has been the rallying force for that community to get themselves educated. I am sorry, my hon. Friend, Mr. Uppi Sahib is not here at present. But, Sir, I can say that when I was in Calicut a few months ago, I found the people there very enlightened and educated. So, Sir, I want education, not for a few but for the many. If the Government is not in a position to enlarge their colleges, it would be their duty to see that they do not deny opportunities to the candidates on the one ground that they have not got so many marks in the examination. It is the path of wisdom and generosity that we should take note of those who are less fortunately circumstanced than ourselves, whether it be in the economic, social, political or educational sphere. It is on this ground that I beg of this House to consider this question. I am not laying down any principle by which admission should be regulated to the colleges, but I do lay down the principle that it is not in the interests of State and the Society that we must be guided by one factor which has produced principles so adverse to the existing order of things from the highest Court of Justice. Let us hope and let us pray that far from increasing the acerbities, we will try to see the other man's point of view more than our own. I should say that by seeing other men's points of view, everyone of us will act in a spirit by which we can bring concord in this State and not discord, so that, in course of time, everybody will feel satisfied. If that is done, I do not think people would want supporters like the hon. Members, Mr. Suryanarayana Rao and Mr. Bhima Rao, nor would they want a Lakshmanaswami Mudaliyar to speak for their rights. Sir, I make no such pretence to do so. My task is done if I have placed the facts as they are because it is my responsibility and it is my duty to do so."

SRI B. BHIMA RAO :—"Let my hon. Friend, Dr. Cheriyan, also speak. I will reply finally."

DR. P. V. CHERIYAN :—"Sir, I am getting in the early part of the debate more to oblige my hon. Friend, Mr. Bhima Rao, than for anything else."

MR. CHAIRMAN :—"I do not know whether this kind of solicitation is allowed."

DR. P. V. CHERIYAN :—"Sir, sometime ago in this House I said that the Communal G.O. was one of the greatest acts of justice that we possess in this State. Sir, I have been connected with medical education for several years and I know, Sir, the position with regard to admissions to medical colleges. The Hon. Gentleman, Dr. Lakshmanaswami Mudaliyar, has dealt with it very exhaustively, and I also want to say a few words on that

[Dr. P. V. Cheriyan]

[18th April 1951]

subject. Now, Sir, hon. Member, Mr. Surayanarayana Rao, suggested that admissions to the technical colleges should be based on the same methods as those existing for the Arts colleges. Now, Sir, the greatest trouble that we have in regard to admission to the professional colleges is that there are not sufficient number of professional colleges as Arts colleges. Sir, the number of seats that are available for medical students is just over 300 for which there are over 1,300 applicants. So, Sir, some method of selection would have to be resorted to. The only method and the only justifiable method I can see is the method accepted by the Government. Nowadays, too much has been talked about merit. I think merit is not the term which we should use in connection with professional education. If you visit the Madras Medical College, Sir, on the second floor, you will find on the wall names of different students who passed out of the college with distinction in each year. If you look at these names, you will not find Dr. Lakshmanaswami Mudaliyar in the list. You will not find the names of any of those prominent doctors who are famous not only in this State but in the international sphere as well."

MR. CHAIRMAN ;—" Not, even the hon. Member's name? "

DR. P. V. CHERIYAN :—" Not even my name, Sir. I am far behind hon. Member Dr. Lakshmanaswami Mudaliyar in every respect. So, Sir, if you look at the list, you will hardly find the name of anyone who has made a reputation for himself. I know of instances. There was one Doctor who got the Johnson's medal and some years ago he was dismissed from Government service in a neighbouring State. There was also another Doctor who also got that medal, but fortunately or unfortunately, he had to retire.

" Then, Sir, if you look into the list of admissions to the Medical Colleges, you will find that most of the boys and girls that are admitted into the medical colleges are those who have got first-class or second-class in B.A. or B.Sc. But if you take these people, you will again find that it is not the class that they got in their examinations or the marks that they got in the examinations that make them successful members of their profession in after-life. Again, you take the case of Muslim students that are admitted into the medical colleges. Because we have to give a chance to all communities, sometimes, we have to admit boys and girls of that community even though they might have failed three or four times in their Intermediate Examination, and if you take the whole class, you will not find even a single Muslim Graduate. But, yet, they have proved to be good medical men in after life. So, Sir, there is something very peculiar in this, which makes students more suitable to be admitted to the medical college than on the ground of mere marks. Therefore, if you inflict this rule of marks and the selection by marks for admission to the medical college, if you insist on it very strictly, then you will find that boys and girls who have got the aptitude do not get a chance at all. So, Sir, merit alone should not be the consideration. That is why you have to give a percentage of seats to different groups

18th April 1951]

[Dr. P. V. Cheriyan]

and to different communities. As responsible leaders of the people, we should see that there is political, social and economic equality. If you want all eligible persons to get into professional colleges, then you should have more colleges. Until you create such privileges and such facilities, how can you, by any means and by any sense of justice restrict the admission to one or two communities? Unless you give such privileges and facilities to other communities, how can you expect that there will be economic equality? Now, Sir, as will be seen, one or two communities who are absolutely forward in passing examinations are monopolising the whole medical profession and also the administrative posts in the Government of the country. Sir, we all talk of the tyranny of the majority. The tyranny of the majority is tolerable to a certain extent but the tyranny of the minority is much worse. It is Titanic and it will bring more trouble. But, in every State in India, it exists now. I know that in certain institutions in North India, certain communities do not get admission into colleges at all unless they get at least 500 out of 700 marks. If such a condition is put for admission, then only the forward communities will get in so that very little chance is afforded to the other communities. So, Sir, if you insist on the marks being the consideration for admission, then, I am sure you will be creating a very great trouble.

" Then, Sir, so far as my own community, the Christian community, is concerned, previously, they were given two seats out of every twelve seats in the medical colleges and in professional appointments. But, for some reason or other, the percentage was reduced to one out of fourteen. According to this, we get only seven per cent of the seats available. The Government are holding the balance so far as the members of the Harijan community are concerned. Of course, it is good because we know that the Harijans are suffering. But, if this communal G.O. is abolished and the number of seats to the Christian community is fixed according to population basis, then, I am sure a larger number of Christian boys and girls would get into the professional colleges. According to my sense of justice and my sense of fairplay, it ought to have been done. Every community should be allotted seats in proportion to its population so that everybody will be satisfied. Similarly, if you fix the number of seats for the Christian community in proportion to their population, you will be doing a very satisfactory thing to the members of the Christian community. Sir, it is very wrong that one or two communities should monopolise the whole services and almost all the seats in the Medical colleges, with the result that other communities are absolutely left in the background. What will happen years after will be this. There will be a few people in a commanding position or occupying positions of responsibility and they may exercise a sort of patronage so that other people will not get into the services or into the professional or arts colleges. The Christian community, as I said just now, Sir, will be greatly satisfied if they are given seats in proportion to their population. I am sure that

[Dr. P. V. Cheriyan]

[18th April 1951]

the matter will be looked into in its proper perspective and that every community will be allotted seats in proportion to its population.

"Now, I will deal with the method of selecting students to these medical colleges. The practice that exists now is this. Members sit down and select candidates. Government have laid down rules which are absolutely fair. I know, Sir, for several years hon. Member Dr. Lakshmanaswami Mudaliyar was in charge of admission. Everybody in the country knows that there are not enough professional colleges. So, we have to start a large number of medical colleges and other professional colleges in the country so that every boy and girl may get admission to the colleges. But till that fructifies, because we are not able to provide as many seats as there are applicants in the country, it is absolutely essential that some form of selection should be resorted to. But, selection on the basis of marks will prove an absolute failure. Hon. Dr. Lakshmanaswami Mudaliyar read some portions from a great authority to show how we cannot rely on marks for measuring one's merit. There are of course the Arts Colleges and other colleges where it is necessary to take these marks into consideration in admitting boys. But, in the case of professional colleges, unless you are sure that you are in a position to select candidates in such a way as to give opportunities to all boys and girls who some day may become good professional men, you cannot lay down rigid rules. There are cases where first-class and second-class graduates who have been admitted into the medical college, have proved absolute failures in their professional life. Similarly, I know of instances where persons who passed out of the medical college with distinction and brilliance and who got Johnson's Medal and other medals, have not proved very successful in their life. Therefore, Sir, it is not the marks that should be the criterion in selecting boys to these professional colleges. Unless the Communal G.O. is retained, I am sure, it will lead to much more trouble in this State. Sir, the Communal G.O. was passed by people who knew the conditions of this State and they did this with a sense of justice and a sense of fairplay. This Communal G.O., as I said in the beginning, has done justice to a certain extent to all the communities in this State in the matter of admissions to professional colleges and in the matter of appointments. Sir, with these few words, I have got the greatest pleasure in supporting the resolution brought forward by the hon. Gentleman, Mr. M. D. T. Kumaraswami Mudaliyar."

12.45 P.m. SRI B. BHIMA RAO :—"Mr. Chairman, Sir, the reason why I request you to allow me to reply is this . . ."

MR. CHAIRMAN :—"We are rising at 1.30 p.m. and we are not meeting in the afternoon. So the hon. Member should finish soon."

SRI B. BHIMA RAO :—"The reason why I wanted to say a few words in the end is because I found that I would be the only

18th April 1951]

[Sri B. Bhima Rao]

person who would differ from, if not exactly oppose, the principle mentioned in the resolution. Sir, a question was put as to what remedy would be suggested. I would answer that question at the outset, in order to satisfy my Hon. Friend Mr. Madhava Menon as to my attitude in this matter which has been misunderstood. You know, Sir, I am in the evening of my life and I do not want to enter into any hot controversy or anything of the sort. I am not a man to differ from friends like Dr. Lakshmanaswami Mudaliyar with whom I have enjoyed long friendship. He and I hail from the Ceded Districts and we were members of the Ceded Districts Union here in 1906 and 1907. I was then in the Law College and he and his brother who came from Kurnool were in the F.A. class in the Christian College at that time. Our friendship dates from that time nearly half a century ago. With regard to my hon. Friend Dr. Cheriyan, I think I owe my life since 1944 to him. When he discovered that I was suffering from cancer of the throat he asked me in a friendly way to take deep X-ray treatment from the next day and told me that otherwise I would die in a week. That was the stern advice he gave me and which I strictly followed. I went to Bangalore on the 1st November 1944 and took deep X-ray treatment and I owe my further tenure of life to his stern medical advice. Therefore, Sir, if I should at this time of the day differ from the opinions of my hon. Friends, it is due more to conscientious difference of opinion and not to any desire to oppose tooth and nail the resolution that has been put forward."

MR. CHAIRMAN :—"I do not think this long preface is necessary."

SRI B. BHIMA RAO :—"I only want to suggest that this must be made a matter of convention. I appealed to the hon. Gentleman Dr. Lakshmanaswami Mudaliyar on the occasion of my Budget speech and before the judgment of the Supreme Court was given. Then the hon. Member Dr. Cheriyan was making his maiden speech in the Council and he advocated the retention of the Communal G.O. I had to differ from him. I appealed to my hon. Friends to have a sort of convention like the one they have for the election of the Mayor of the Corporation of Madras."

"Now, Sir, I did not know that this subject was coming up for discussion today. I have also got a file of about 1,000 pages with regard to this Communal G.O. With regard to the initial Communal G.O. the Brahman community was not much affected. I remember that in the year 1927, the order that was passed was that in the case of Brahman candidates for the Engineering College they should have got first class or second class in Mathematics or Physics. A similar rule was passed with regard to the Medical College. The Brahman Community was not much affected. It was only in the year 1947 it was stated with regard to the professional colleges that one only out of seven could be a Brahman. Then they realized the discrimination made against them. I shall

[Sri B. Bhima Rao] [18th April 1951]

now give certain instances to show how the Constitution cannot be amended at this stage and the best way is to sit across a table and evolve a convention rather than insist upon the Central Government amending the Constitution. That is the point I am elaborating. In 1948, we found that in my own district, boys who had got cent per cent marks in the S.S.L.C. Examination and had stood high in the Christian College and the Presidency College and taken a first-class in the Intermediate Examination, when they applied for seats in the Engineering College, they were not admitted. But the son of a friend of mine,—a very good friend of mine who was not a Brahman—who had got only 40 per cent marks in Mathematics was admitted into the Engineering College. It was only afterwards when I made enquiries that I found that the reason for this was that the G.O. had been modified in 1947 to the effect that out of seven seats allotted for the Bellary district both in the Engineering College and the Medical College only one Brahmin could get in and no more. It so happened in that particular year so far as the Bellary district was concerned, the son of the Headmaster of the Hospet High School who hailed from Mangalore and who had been there for 20 years, was treated as a boy belonging to the Bellary district and given admission. He had also got cent per cent marks in the Intermediate and probably a few marks more than others. There were however other Brahman boys who had got between 75 per cent and cent per cent and they were refused admission. But the others who got less percentage of marks were admitted.

“Sir, since then I have been addressing the present President of the Indian Republic who was then the President of the Indian National Congress, the Education Minister Maulana Abul Kalam Azad and the Prime Minister of India on this subject. They have said, ‘We are against all kinds of communalism—Hindu and Muslim, Brahman and Non-Brahman or any kind of communalism.’ They enunciate these principles but are quite reluctant to interfere with the internal administration of the State, much more so when they are faced with several problems like the Kashmir problem, the Korea and China problem as well as so many other problems inside the country such as the defection of certain groups constituting the Congress. So they do not want to interfere with the States. I am probably taking much time; anyhow I shall conclude before 1-30 p.m.”

MR. CHAIRMAN :—“I said that we shall close our sitting at 1-30 p.m. I did not say that the hon. Member might conclude his speech at 1-30 p.m.”

SRI B. BHIMA RAO :—“Sir, the President of the Indian National Congress did not reply to my letter; he did not even acknowledge my letter. Then when he became President of the Republic I addressed a communication to him. I told him that there was a G.O. in force in the State of Madras and requested him kindly to refer the matter once for all to the decision of the Supreme Court under Article 143 (1). This I did in March. I

18th April 1951] [Sri B. Bhima Rao]

sent a copy of my letter to the Secretary to the Prime Minister. It was a communication of ten typed pages and I quoted the instances mentioned by me with regard to my own district. I mentioned the same to the other Congress authorities who visited this place and to Sri Shanker Rao Deo who was the General Secretary of the Congress. He kept quiet till the Madras High Court gave its decision in July 1950 and then replied stating that since the Madras High Court had given its decision to the effect that the Communal G.O. is *ultra vires* of the Constitution, it was unnecessary to refer the matter to the Supreme Court. Then the Madras Government took the matter to the Supreme Court and they have now given their decision. Certainly it is not a matter to be gloated over as some Friends on the other side have put it. I have not got the temperament to gloat over such things; I am not a man of that temperament at all. Before the Supreme Court gave their decision, on the occasion of my Budget speech I requested the hon. Member Dr. Lakshmanaswami Mudaliyar to evolve a formula. He is the Vice-Chancellor of the Madras University. The Syndicate of that University had come to certain conclusions on this matter last June. They were published in the papers. We also had a copy of the decisions as Members of the Senate. The Syndicate did not agree with the views of the University Commission advocating the principle of admission by merit. On the last occasion, before the decision of the Supreme Court had been given I appealed to my hon. Friend, instead of fighting the matter out in the Supreme Court, to have admissions by merit up to a certain extent. I said that 50 per cent of the admissions may be made by merit. What is merit, I shall define later on according to my view. The other 50 per cent of admissions may be made in accordance with the provisions of the G.O. I thought thereby that we would maintain the efficiency of the administration.”

MR. CHAIRMAN :—“Does not the hon. Member think that with the Constitution remaining as it is, even if 50 per cent of the admissions are made according to merit and the other 50 per cent according to the Communal G.O. there will be objection with regard to this 50 per cent?”

SRI B. BHIMA RAO :—“As I said, it must be made a matter of convention, so that it may be binding.”

MR. CHAIRMAN :—“But the convention itself may be taken up to the Supreme Court.”

SRI B. BHIMA RAO :—“There is a similar convention in spite of a statute, with regard to the election for the Mayorship of the Madras Corporation. And has anybody transgressed it?”

MR. CHAIRMAN :—“Perhaps we must wait for some occasion when somebody will challenge it.”

SRI B. BHIMA RAO :—“Sir, much has been spoken of the expression ‘merit’. The advocates of the opposite view state that ‘merit’ does not merely denote marks, but to a certain extent

[Sri B. Bhima Rao] [18th April 1951]

it may be correct to say so. Ordinarily I think one can make out if a man is of outstanding ability and merit, by the marks that he obtains. If other considerations are introduced, there may be an error of judgment in the selection of candidates.

"An hon. Member spoke of Dr. Matthai. He and I took the same rank in the Matriculation and in the F.A. examinations. Only in the B.A. examination I took a first-class in Mathematics and he took a first-class in History and Economics. We both appeared for the Mysore Civil Service examinations when Mr. N. Madhava Rao, now retired Dewan, was also a candidate. We were all in the Law college together. In the *viva voce* examination, my friend Mr. Madhava Rao who has got a very fine personal appearance, got 100 marks, while Mr. Matthai got 30 marks and I got 25."

MR. CHAIRMAN :—"Evidently, it was due to personality, not to *viva voce*."

SRI B. BHIMA RAO :—"Yes. I do not know if you remember that the Public Service Commission presided over by Lord Islington, in the year 1912 took evidence; and before that Commission, one of the Presidents of our Legislative Council—he was Registrar of Co-operative Societies, for some time and later Secretary to the Council—Mr. Swamikannu Pillai, appeared and said that there must be no competitive examination and no *viva voce* examination, because he had been given only 5 marks in the *viva voce* although he was a very brilliant man otherwise. He definitely said that competitive examinations should be abolished, and in any case, there must be no *viva voce* examination at all. I am mentioning this just to show that the test by marks has provided a distinguished galaxy of people from Madras who are occupying very high positions, in the international sphere now. Sir, I myself graduated in the year 1904. Mr. Benegal Narasinga Rao in 1905 took the first place in Mathematics and he is now in the U.N.O. in America. I shall finish, Sir, in about ten or fifteen minutes, so that other hon. Members may also have an opportunity to take part in these discussions."

MR. CHAIRMAN :—"What is the sense of the House? The hon. Member Sri Bhima Rao is giving the other side of the question. Should we not allow him some time? Why curtail the time he wants? I think we can sit again at 2-30 if necessary?"

JANAB ABDUL LATIF FAROOKHI :—"Yes, Sir."

SRI B. BHIMA RAO :—"I was saying that Mr. Benegal Narasinga Rao took the first place in Mathematics from the Madras University of which our Doctor here is the present Vice-Chancellor. In 1906, his brother Mr. Benegal Rama Rao took the first place in Mathematics and he also, like his brother, entered the I.C.S., and he is now the Governor of the Reserve Bank of India. He has served in South Africa, in England and in other countries with credit to our State. Then in the year 1907, our friend Sri S. V. Ramamurti took the first place in Mathematics.

18th April 1951] [Sri B. Bhima Rao]

Dr. S. Radhakrishnan took the first place in Philosophy in that year. Similarly, I remember quite well the names of many other distinguished people who have entered the I.C.S. and the P.C.S. In the year 1904, Mr. N. Gopalaswamy Ayyangar took the first place in the Provincial Civil Service, and he is the last of the Provincial Civil Service men. Therefore, I say that one ought not to decry this system of judging a man by the marks that he obtains; the later life of these gentlemen has demonstrated that certainly the obtaining of marks is also a very important aspect in testing the merit of the candidates concerned.

"I may also be pardoned if I mention a bit of my own experience. I was originally meant for admission into the Engineering College. In those good old days of 1905, there was the system of competitive examination for admission to the Engineering College. Only twenty people were being admitted then; I entered that competition and I stood first, but on account of other circumstances I had to change from the Engineering to the Law College and I have been a lawyer ever since. Probably if I had entered the engineering line, I would have enjoyed rest for twelve years now—but that is a different matter.

"So, I submit one ought not to cavil at the system of judging merit by the marks obtained. Of course you may also test the candidates, as my hon. Friend Dr. Cherian said, for a period of two or three days or even a week, whether he is suitable for the post or not. Anyway, this is a very important aspect which should not be lightly brushed aside as hon. Member Dr. Lakshmanaswami Mudaliyar and another hon. Member did. Once, I believe in the year 1928—the marks obtained in the *viva voce* examination were made the determining factor in the result of the candidates who appeared for the I.C.S. I think Mr. Krishnan Nayar's son—who I believe is Secretary to Government—secured 200 or 210 marks in the *viva voce* examination in 1928 and stood first. All these show that we must attach due significance to the obtaining of marks.

"Now, Sir, coming to the point at issue. Several brilliant people are affected by the application of this communal G.O.

(At this stage, the Deputy Chairman occupied the chair.)

"Especially with regard to admission to the Medical College. I am sure some of my friends sitting opposite know that I wanted my daughter to join the Medical College and with that idea she took Zoology and allied subjects in the Intermediate examination. She applied for admission into the Medical College three years ago, but according to the list of admissions, only two Brahmin girls were admitted into the College that year. The cry has all along been—and I have heard it expressed at several meetings by several eminent gentlemen—that more and more women should take to the medical profession. Yet, when girls apply for admission to the Medical College, they are not given seats on account of their caste. Already Brahmin representation had dwindled to 1 out of 7, and there were both male and female applicants. Preference was shown to females up till a few years ago, and if a lady candidate

[Sri B. Bhima Rao] [18th April 1951]

applied for admission to the Medical College, she would get it at once, and no fees also were being charged for them during the Advisers' regime so far as I know. Now, however, in spite of the fact that they are prepared to pay the full fees, they are denied admission into the Medical College and they are obliged to take to other professions which they never dreamt of before. Such is the disadvantage to which members of the Brahman community are put to on account of this communal G.O. It ought to be abrogated. I know there is a great difference of opinion in respect of this G.O. among members of the Muslim community and the Indian Christian community. Those in my district say that they are affected by this communal G.O. If this G.O. were not there, we would have got in easily, that is the complaint made. But I find members of the Indian Christian community here supporting the communal G.O. There is also my other friend Mr. Ruthnaswami, the Vice-Chancellor of the Annamalai University, who is now an M.P., giving expression to this view. There is real *bona fide* difference of opinion in this respect.

"I submit we cannot quarrel with the Constitution either. We all know that the Constituent Assembly began its deliberations on the 9th December 1946 and it took three years for them to conclude the sessions towards the end of 1949 and the Constitution Act was enacted and came into force on the 26th January 1950. The members of the Constituent Assembly have taken a lot of trouble in drafting and enacting the Constitution Act and we must pay due respect to that Constitution. I submit, Sir, this is not the proper occasion for urging an amendment of the Constitution. I may also point out that there is no provision in the Constitution Act for making an amendment of it till the new elections take place, i.e., till the members of the House of the People are elected and also the members of the Constituent State Legislatures. So, Sir, till our Parliament is elected afresh on the new franchise and the new parliament assembles—and even then it can be done only by a two-thirds majority vote—no amendment of the Constitution Act can take place.

1-15 P.M. "Till then, Sir, I do not think the present Parliament is competent to make any amendment to the Constitution. I need not urge this aspect of the question on the Government because it must be obvious to the Members of the Government and hence it is that they have approached the Central Government to examine the provisions and I need not take up the time of the House in quoting the relevant provisions of the Constitution to show how it could not be done."

THE HON. SRI K. MADHAVA MENON :—"But how is it relevant to the resolution under discussion; it does not seek an amendment of the Constitution."

SRI B. BHIMA RAO :—"We saw reports in the papers a few days ago that the Government have asked the Central Government to examine the position and see that some amendment of the Constitution is made. As I submitted, Sir, it cannot be made and

18th April 1951] [Sri B. Bhima Rao]

the only way is to set up a convention by sitting across the table; there are members of the Brahmana Sangham and some of the Madras leaders are Members of that body and there are those who hold different views and I am suggesting that Dr. Lakshmanaswami Mudaliyar, Dr. Cherian and the Hon. Sri Madhava Menon can sit together and evolve a convention which will set at rest this question for the time being till elections take place to the House of the People. That, I feel, is the only method to see that no member of any community might again go to the Supreme Court on this issue. I do not know whether the Government would go on applying with the communal G.O. as it at present obtains in spite of the decisions of the Full Bench of the Madras High Court and of the Supreme Court; it would not be a fair attitude for a well constituted Government to take; they must abide by the decision of the Madras High Court; whatever their differences may be outside, they must bow to their decisions. I find, Sir, that in spite of the fact that the highest Courts have held the communal G.O. to be wrong, appointments are being made and notified in the Gazette as though nothing has happened. I submit, Sir, that that is not a proper attitude for a well organized Government to adopt. They must treat the decision of the Full Bench of the High Court as binding upon them and act accordingly."

JANAB K. T. M. AHAMED IBRAHIM :—"I do not think that the resolution of my hon. Friend Sri Kumaraswami Mudaliyar wants the Government to commit any contempt of court; it only wants the Government to move the proper quarters for the amendment of the Constitution."

SRI B. BHIMA RAO :—"But the Hon. Sri Madhava Menon remarked that the resolution does not seek an amendment of the Constitution and suggested that I need not speak at a tangent from the main resolution but the hon. Gentleman (Janab Ibrahim) is making an observation to the contrary but I understood it in the manner that he has understood the resolution. It is not mentioned there that an amendment of the Constitution should be sought for. No doubt it is not expressly stated that an amendment should be made but reading between the lines, the objective of the hon. Member is quite clear and the hon. Gentleman Janab Ibrahim has given his commentary and I accept his commentary."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—"But I am not a lawyer, Sir."

SRI B. BHIMA RAO :—"I know, Mr. Deputy Chairman, that the hon. Member is not a lawyer and so he has very carefully drafted the resolution so that the real intention is not stated there but reading between the lines one might see what is meant there."

JANAB ABDUL LATIF FAROOKHI :—"It is just that lawyers might fight over it."

SRI B. BHIMA RAO :—"It is with deep regret and with absolutely no feeling of rancour against any one that I oppose the resolution and I request the Government to carry on the administration in accordance with the principles laid down by the Full Bench decision of the Madras High Court and the Supreme Court."

[18th April 1951]

* SRI N. RANGA REDDI:—“ Mr. Deputy Chairman, Sir, this is a subject on which I have spoken on more than one occasion on the floor of the House and I do not want to repeat the arguments I advanced on those various occasions. There seems to be some misapprehension in the minds of hon. Members about the scope of the resolution; it does not say that the Constitution should be amended in any manner in view of the decision of the Supreme Court regarding admission of students into the technical colleges of the State. What the hon. Mover has proposed is that steps should be taken to ensure social justice so that all people in the State may get fair representation in the matter of admission into technical colleges. So far as that aspect of the matter is concerned, I do not think any one would voice any protest. As a matter of fact, even the hon. Gentleman Sri Suryanarayana Rao who had some difference of opinion with regard to the implementation of the communal G.O. said that this particular resolution is innocuous and he had no hesitation in supporting it. But my hon. Friend Sri Bhina Rao opposes it tooth and nail and does it not only on the floor of this House but also even in the Senate of the Madras University of which I am also a Member. So far as the Constitution is concerned, it does say that no one shall be denied admission on the ground of race, caste or community. That is all right but the question is whether all communities should have the advantages of higher technical education or not. When it is conceded that the number of seats is limited, there is practically no other method of ensuring admission into the colleges than on this principle. It is unfortunate that the Supreme Court came to this particular decision but we have no quarrel with the Supreme Court because they have merely interpreted the Constitution. But the point to be considered is whether we would devise any other method of giving fair representation to all the students who would like to be admitted into the technical colleges of the State. And with regard to that, it has been suggested that marks is a very good test of efficiency, intelligence and merit and therefore, that alone ought to be the criterion. But regarding this the hon. Members Dr. Cherian and Dr. Lakshmanaswami Mudaliyar who have held responsible offices in the Medical Department for very long periods have given it as their opinion that marks alone could not be taken as a test of merit and I think we have to bow to their opinion. If an argument like that were to come from a lay man, probably it could be challenged but they have advanced this argument on the basis of their long administrative experience and hon. Member Dr. Lakshmanaswami Mudaliyar has quoted in support of his opinion another scientist and it is not necessary for me to say anything more on that point. In this connexion, I want to put a question point blank to hon. Members who are of the opinion that marks are a test of merit. I have been questioning some of my friends who are principals of colleges and they also feel like me. According to the rules, it is only a boy who has secured first class in the Intermediate that is selected for the medical college. But I have known several instances where boys who have passed first class

18th April 1951] [Sri N. Ranga Reddi]

class marks. The question is how does such a thing happen? If their first class pass in the Intermediate examination indicates merit, of what avail it is when they cannot get through in the pre-registration examination? Therefore, the argument that marks constitute merit seems to be hollow. The second point is that, Sir, if we want to give satisfaction to all the people regarding admission, on what basis is it to be? Is it to be on the basis of marks alone? Let me tell the hon. Member that it is not because Non-Brahmin boys secure low marks, I am making this claim. So far as the Rayalaseema districts are concerned, with my little knowledge of high school students, I can say that the Non-Brahmin boy is in no way inferior to any Brahmin boy and I have seen in my district, every body that has topped the list is not a Brahmin boy but a Non-Brahmin boy. I cannot speak with much authority about the district of Bellary but this is a question which has to be examined in closer detail. I am only saying that they do not want any reservations or privileges but till proper opportunities and facilities are given, there should be some device by which these boys should be allowed to enter colleges. I am very grateful to hon. Member Dr. Lakshmanaswami Mudaliyar for raising his voice in support of the Rayalaseema people. Theirs is a legitimate grievance and I have been entreating for a long time past both on the floor of the House and outside to give us many more colleges. Hon. Member Dr. Lakshmanaswami Mudaliyar comes from the Rayalaseema and when equal opportunities are provided for us, we do not want any reservation at all.

“ Now, Sir, take the case of admissions to technical colleges. 1- If there is no college in Cuddapah or Kurnool district where second P- group is not taught, how can you expect boys to get admission to the medical colleges? Therefore, it is necessary to provide second group facilities in all the local colleges. Otherwise, if they come to Madras, they will not get the same facilities as they have in their districts. It is not also possible for boys to come to Madras from all over the State for their studies, because Madras is too costly. It is also a very good thing that the Madras University has recommended that first grade colleges should be distributed throughout the State, so that there may not be overcrowding at all. I want to congratulate the Hon. Mr. Madhava Menon on having raised the Cuddapah college into a first-grade college. After facilities are provided, if boys do not take advantage of them, it is not the fault of the University, nor is it the fault of Government. But, I have no doubt, now that the opportunity has been given, the students of Rayalaseema will take advantage of them, apply themselves thoroughly and get through the examinations.

“ Then, Sir, probably my hon. Friend was saying that it is too early to amend the Constitution. I do not know whether he is familiar with another provision in the Constitution which has been interpreted by the Bihar High Court with regard to the abolition of the zamindaris there. I am glad to tell my hon. Friend that a Committee has been appointed by the Parliament for

1096 RESOLUTION re ADMISSION TO GOVERNMENT PROFESSIONAL
COLLEGES AND APPOINTMENT TO SERVICES

[Sri N. Ranga Reddi] [18th April 1951]

examining the question and it is very likely they will make some recommendation to the Parliament for amending the Constitution, because in respect of the abolition of zamindaris, the point raised was that under the present Constitution it is not likely they will get the necessary amount of compensation. So there is a prospect of amending the Constitution and, there is no point in saying that an amendment to the Constitution ought to be made only by the new Parliament as if any sanctity is attached to it."

DEPUTY CHAIRMAN:—"May I know how many minutes more the hon. Member requires to finish his speech?"

SRI N. RANGA REDDI:—"At least another five minutes, Sir."

DEPUTY CHAIRMAN:—"The hon. Member may continue after lunch."

The House then rose for lunch.

(After lunch—2-30 p.m.)

(Deputy Chairman in the Chair.)

* SRI N. RANGA REDDI:—"Sir, the hon. Member, Mr. Bhima Rao, was saying that an amendment to the Constitution could be made only by the new Parliament which comes into existence after the next elections. I do not understand his point of view why it should be done only by the Parliament which may come into existence later on. I want to tell my hon. Friend that it is this Parliament that passed the present Constitution and if any defect has been pointed out in the Constitution, it should be the present Parliament that should remedy the defect, and not the Parliament that may come into being later on. I shall just mention one thing.

"So far as merit and marks are concerned, they are not co-extensive and it is difficult to assess the efficiency of a particular community by means of marks. Very recently, there were two examinations, I think, in connexion with the Indian Administrative Services. I am told last year, almost all the students that got into the Indian Administrative Service were students who came out from the Loyola College, and this year, the students who came out successful at the Indian Administrative Service examination, were students who came out of the Presidency College."

THE HON. SRI B. GOPALA REDDI:—"Next year the Panchaiyappa's College."

SRI N. RANGA REDDI:—"Whatever it is, I really cannot understand whether marks are the test or the criterion for finding out the worth of the candidates and why the students who came out of the Loyola College were selected last year and the students of the Presidency College were selected this year. There should therefore be something either in the nature of the examination or in the examiners and it is something which I am not able to divine. But, suffice it for me to say that so much depends upon the nature of the examiners also. Of course, hon. Member

RESOLUTION re ADMISSION TO GOVERNMENT PROFESSIONAL 1097
COLLEGES AND APPOINTMENT TO SERVICES

18th April 1951] [Sri N. Ranga Reddi]

Dr. Lakshmanaswami Mudaliyar—though he did not mention it in the course of his speech—just said that five minutes' interview decided the fate of the Rayalaseema candidates. So, Sir, that is the kind of examination that is prescribed for finding out the efficiency of the candidates. Even educationalists themselves say it is not a reliable test and so let us not adopt it. Let us adopt the test that gives satisfaction to all people. Let us see that the seats are distributed throughout the State so that every one may have a chance and let the seats not be monopolized by any particular area. Sometime back this same Government was saying that seats ought to be allotted on the basis of language, because they did not want that the seats should be monopolized by the people of only one area. Otherwise, there would be clamour and agitation from people asking why only this or that particular district should get the seats. Therefore, Sir, I submit that some device ought to be attempted to see that the seats are distributed throughout the State. That is one thing.

"Again, Sir, it has been said that advisory committees have not been functioning properly. If the advisory committees are to function properly and are not to be criticized for showing favouritism, there ought to be some rules for their guidance. Otherwise, people will say the same thing as I have been saying with regard to distribution of seats and so on. After all the rules are intended not for the interest of anybody but for the interests of the institution and the boys. But, still there may be people who do not know on what principle selections are made and so it gives room for criticism. If discretion is to be vested in one person, there ought to be certain rules for his guidance. After all democracy is based on the rule of law and one should know on what principle a certain thing is done. Otherwise, even though a thing is done with the best of motives or best of intentions, any Act can be challenged, even though it is good. Therefore, it will be safer to prescribe some rules for the guidance of the advisory committees. It is not my purpose to say that the rules should be made by the present Government to flout the decision of the Supreme Court. I think, the purpose of the resolution has been misunderstood. It is not also the purpose of the Government or of the Mover or for that matter, of anybody here to flout the decision of the Supreme Court. We are as loyal as the hon. Member, Mr. Bhima Rao. But I want to say that if satisfaction cannot be attained by following the decision of the Supreme Court, then we have to evolve something which will give satisfaction to one and all and not by flouting the decision of the Supreme Court. If there is a method by which we can distribute the seats to all areas in the State, then let us adopt that method. For arriving at that method, we have to sit together and devise. As my hon. Friend has stated, if it is not possible to devise any method in the course of a few minutes, we may even sit for hours and hours together, if necessary. It is in that way, this resolution has been brought forward and it is not meant to flout the decision of the Supreme Court.

"Then, Sir, with regard to the question of recruitment of officials to the subordinate services also, very often it is done by means

[Sri N. Ranga Reddi] [18th April 1951]

of competitive examinations. But when I find how these promotions are made, it staggers me. Very often if a subordinate clerk is able to satisfy his superior officers, he gets a good certificate saying he is very efficient. Except his personal opinion, I do not know how he can test the work of the subordinate. As I said when it is not possible to find out the worth of a man by means of examinations, it is not also possible to find the worth and efficiency of a clerk. I say these are not the formulae to judge the worth of a person. If it is left to the sweet will and pleasure of a particular officer, one may get promotion over others or his whole career will be damned. I know there have been cases of people whose work has been praised by one officer but deprecated by another officer. This only shows that there is some mistake in the judgment of the officials concerned regarding the work of these people or that some other thing enters into the judgment. So, Sir, I have great pleasure in supporting this resolution."

* JANAB K. T. M. AHAMED IBRAHIM :—" Sir, I must begin by thanking the Hon. Law Minister for informing us that the Government have given freedom of vote to party members in regard to this matter; thereby he has given us an inkling that the Government's sympathy is behind the resolution. We have already known that the Government is for the continuation of the *status quo*. The very fact that they took the judgment of the Madras High Court on appeal to the Supreme Court is ample testimony to that fact and as soon as the judgment of the Supreme Court was delivered, there have been rumours afloat that the Government was giving due and anxious consideration to the matter. Of course, the elections are very near and some people may consider this as an election stunt. The Government know the feelings of the majority over this matter. At least from that point of view, I am sure the Government will very soon come to a decision in regard to this matter and urge on the Government of India the necessity for amending the Constitution in such a manner as to see that equal opportunities are given to all sections of the population both in the matter of admission to colleges and in the matter of recruitment to the services of the State.

" I am glad, Sir, the hon. Member, Mr. Suryanarayana Rao, who very often used to bracket himself with the hon. Member, Mr. Bhima Rao, argued as a matter of fact for the resolution and supported it, though now and then he said that he could not see eye to eye with the intentions and purposes of the resolution. I am not really able to understand whether he opposed the resolution at all. But I should think he supported the resolution or rather his arguments were in favour of the substance of the resolution. A question was put to me by the Hon. Chairman why I could not have raised the question at the time when the Constituent Assembly was considering the relevant Articles of the Constitution, and I told him what really took place. In fact, I really envisaged at the time that such a situation as we see now would come about. At that time, I said, if Article 29 were to be passed, it would cause injustice to the various communities in our State. Nobody could deny the fact that lop-sided development will not, in the long run, conduce to

18th April 1951] [Janab K. T. M. Ahamed Ibrahim]

the progress and prosperity of any State. If only one section of the population develops while the other sections become stunted in growth, it will not be conducive to the prosperity and progress of the nation as a whole. Very often the analogy of the army has been cited in this connexion. For instance, if one division of an army goes forward ignoring and leaving behind the other divisions, what will be the fate of that division? It will surely fall into the clutches of the enemy. So, if any army should win, all the divisions of the army should march together. On the other hand, even though a particular division is more martial and better equipped than the other divisions, on account of that very feeling of superiority, that division is sure to perish if it goes ahead of the other divisions. That will not be to the benefit of the whole army. So also is the case with a nation or a State. So, if the State should prosper, every section of the population should have equal opportunities for development and proper steps should be taken by the Government of the day to see that the various classes of the population grow and develop together. Otherwise, no State can progress and develop properly.

" Well, Sir, the hon. Member, Mr. Bhima Rao said by implication when he referred to the letters he wrote to the President of the Indian Union, to the Prime Minister of the Indian Union and to the Education Minister of the Union, that this communal G.O. had engendered communalism and that it has been responsible for a great amount of evil. I would like him to go back to the history of the communal G.O. and ask him whether the communal G.O. preceded the birth of the so-called communalism in the State or communal feelings preceded the communal G.O.? The statesmen of the day, realists as they were, took a realistic view of the situation and desired to see that particular sections of the nation do not monopolize colleges and services as they apprehended that if such a state of things were to continue it would create intense bitterness, rancour and animosity and lead to frustration and disappointment among the people.

" They wanted to arrest the menacing growth of communal rancour, communal animosity and communal hatred. This communal Government Order therefore, followed that evil as the best remedy to eradicate the evil. It is absolutely wrong to presume that the evil had been the result of the Communal Government Order. After the Government Order came into force there has been a good deal of softening of the rancour and animosity between the communities, because the communities feel that they are getting a portion of their rights, some rights at any rate, in respect of admission to colleges and services. The result of the working of the communal Government Order has justified the promulgation of the Government Order by the statesmen who were responsible for its issue. As I pointed out, as a result of the Government Order there has been very much softening of the rancour and hatred between the communities, and the communities feel that their rights have not been completely ignored and that they are getting their rights partially at least. The hon. Member

[Janab K. T. M. Ahamed Ibrahim] [18th April 1951]

Mr. Bhima Rao was harping upon communalism. But I am yet to know what he meant by communalism. He did not define communalism. If communalism means rancour, prejudice and animosity between communities, none of us will be a party to it. If, on the other hand, communalism means the granting of legitimate rights to every section of the community and the granting of equal opportunities to all sections of the people, I plead guilty to the charge. I am not ashamed of it. We want this State to develop and progress. There must be equal opportunities to all sections if the State is to progress as a whole. No department of life must be the monopoly of any particular section. If this demand is styled communalism, then I for one plead guilty to it. I am not afraid of it nor am I ashamed of it.

"When Article 29 came up before the Constituent Assembly, I thought that it would play great havoc in course of time. I pointed out the difficulty, so far as the minorities were concerned. I even moved a resolution in the matter. I wanted that at least educational institutions which are run or conducted by the Government for the benefit of minorities should be exempted from the operation of this Article 29 (2) because so far as our State concerned, there are educational institutions run by the Government for the benefit of particular communities. They might have been originally established by the communities concerned or they might have been established by the Government themselves. But all the same they are run by the Government now. I pointed out that at least these educational institutions should be exempted from the operation of this Article, as otherwise the very purpose in running such institutions for the benefit of the communities would be completely defeated. But as usual my resolution was lost. It was stated by my hon. Friend Mr. Suryanarayana Rao that I moved the resolution as a Muslim Leaguer.

(At this state Mr. Chairman resumed the Chair.)

"As a Muslim Leaguer I feel that every section of the population of the country must have its rights. We stand for legitimate rights for all sections of the population. If this is considered as a crime, I plead guilty to that. I am not ashamed of it. Again from the very beginning, we, the Muslim League members of the Constituent Assembly, were fighting for the rights of the States. We were fighting against the whittling down of the rights and powers of the States. At every stage we were defeated. Now this Government feel that their hands and feet are tied down, and that their powers have been very much whittled down. The Hon. the Finance Minister has given expression to this on so many occasions. Even when we moved an amendment for strengthening Provincial Autonomy, it was opposed only on the ground that it was supported mainly by the Muslim Leaguers; of course Pandit Kunzru supported us very vehemently. That amendment was also defeated. The next day an amending Bill was brought forward by the Hon. Sardar Patel to amend the Government of India Act, 1935, in terms of the Article passed previously. Opposition to it was raised by Pandit Pant, Mr. Shukla and Dr. Mukherjee. The result was

18th April 1951] [Janab K. T. M. Ahamed Ibrahim]

that that Article of the Constitution which was passed only the previous day could not be incorporated in the Government of India Act, 1935, by the amending Bill. Then Pandit Kunzru pleaded that in view of the changed attitude on the part of the very persons who voted for it, that Article should be amended. But this was not agreed to; then it was freely talked about in the lobby, and it was even reported in the newspapers, that that amendment was a very good one but that it was defeated only because, as hon. Member Mr. Suryanarayana Rao said, it was supported by Muslim Leaguers. Sir, I am very glad that so soon Government themselves have come to feel that the attitude we took then in the matter is amply justified. I am glad of this. I am proud of this. I am thankful to God for having given me the opportunity to say that now."

MR. CHAIRMAN :—"Then it is the proper time for the hon. Member to stop! He seems to be in a very good mood to stop!"

* JANAB K. T. M. AHAMED IBRAHIM :—"I am coming to the subject only just now, Sir. The hon. Gentleman, Mr. Bhima Rao said that the present Parliament has no power to amend the Constitution in any manner. I am sorry he has not gone through the Constitution thoroughly. He has forgotten Article 379 of the Constitution which makes specific provision for the functioning of the Constituent Assembly until both the Houses of Parliament are constituted under the provisions of the Constitution."

MR. CHAIRMAN :—"He might not have known it at all, because none of us can pretend to know all the Articles in the Constitution."

* JANAB K. T. M. AHAMED IBRAHIM :—"This communal G.O. has been attacked by certain persons *ad nauseum*. I would like to know how it is prejudicial to the progress of the country. As I said, it was found necessary on account of the evil that was rampant at that time. I ask, Sir, has not this G.O. remedied that evil to a certain extent? I would ask whether on account of the admission to colleges being regulated according to the communal G.O., there has been any deterioration in the maternal of the colleges, and whether the engineering and medical graduates who come out of the colleges have been found to be inefficient in actual practice. I do not find any such complaint being made from any quarter either by the Principals of the colleges or by the employers who employ them. Of course, the State is the greatest employee. I do not find that any of these people have complained of inefficiency or inability on the part of the graduates coming out of the colleges, because they were selected on the basis of the communal G.O. The result only justified the means which were adopted by the able statesmen who were responsible for the issue of this G.O."

"Latterly, the communal G.O. has been whittled down to a certain extent. Promotions have been excluded from the purview of the G.O. The number of seats allowed under the G.O. to the

[Janab K. T. M. Ahamed Ibrahim] [18th April 1951]

Muslims has been very much reduced. It was 2 out of 12 previously and now it is 1 out of 14. To that extent my community has been affected. What communal justice we expected from the operation of the communal G.O. has been very much circumscribed and limited by this unilateral act of the Government.

"Sir, I would again point out that but for this communal G.O. many persons of various communities who are occupying high positions in life now, and who are displaying their talents, would not have otherwise been enabled to display their talents. It is because of this G.O. they were able to reveal their talents, and serve their country and themselves. Mr. Suryanarayana Rao said that the method that was being adopted in the Arts Colleges could be adopted with regard to admissions to professional colleges also. I do not know how he is certain that that method will not be challenged by anybody in the courts. If the method adopted is really against the fundamental rights secured by the Constitution, surely everybody will have the right to challenge it. That cannot be helped. I do not know how the hon. Member advocated that the convention that was being followed in regard to Arts Colleges might be usefully extended to professional colleges.

"Sir, I wish to point out another difficulty with regard to my community. Article 29 of the Constitution says—

'29. (2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.'

Therefore, any educational institution which receives aid out of State funds cannot give any preference in regard to admissions to members of any community. Article 30 (1) of the Constitution says—

'30. (1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.'

This right given to the minorities to establish and administer educational institutions will be of no use if the management or the communities which spent money and established such institutions are not given the right to give preference to members of their own community in regard to admissions."

MR. CHAIRMAN :—"I do not think it prevents you. Provided you do not ask the Government for money, you can have your own institutions."

* JANAB K. T. M. AHAMED IBRAHIM :—"It is part of my money, Sir."

3 p.m. * MR. CHAIRMAN :—"Article 30 does not prevent any minority, whether based on religion or language, from establishing and administering educational institutions of its choice. Article 29 (2) only says that no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them. Therefore, the hon. Member has got the right to establish and administer educational institutions, provided he does not require financial assistance of Government."

18th April 1951]

* JANAB K. T. M. AHAMED IBRAHIM :—"I do not want to impose on myself a self-denying ordinance, Sir. I do not want to deny myself a right to which I am lawfully entitled as a citizen and a tax-payer. Therefore, I am requesting the Government to consider this point also while making suggestions to the Government of India for amending the Constitution. What is given by one hand is taken away by the other hand, Sir. The right given by Article 30 is practically taken away by Article 29 (2)."

MR. CHAIRMAN :—"It is not taken away. The right to establish and administer an educational institution is there."

* JANAB K. T. M. AHAMED IBRAHIM :—"I am quite conscious of that, Sir. But my submission is with regard to Article 29 (2). It is unjust on the part of the Government to deprive me of my legitimate share. That is my complaint. We have been establishing so many colleges, but if they are subjected to this restriction, then the very purpose of the establishment of those colleges would be defeated and the Government will be doing a very great injustice to certain people in the matter. Therefore, I am urging that this Article also should be amended to a suitable manner.

"Then, Sir, the hon. Gentleman Sri Bhima Rao said that we must bow to the decision of the Supreme Court and that this Resolution was in effect flouting the judgment of the Supreme Court. I am sorry to point out, Sir, that it is a mistake. It does not at all flout the decision of the Supreme Court. It is the duty of the Court only to interpret the law as passed by the Legislature and the Legislature has got the right to amend any law in the light of the observations and judgments of Courts of Law. If the Legislature finds that the intention of the Legislature is not carried out by the legislation, it will, of course, take the necessary steps to amend the legislation. Therefore, I do not know how the Resolution is tantamount to contempt of Court. It only urges the Government to take steps for giving due representation to all classes and communities so that it may be conducive to the welfare of all classes of people. Every citizen of the country has got the right to ask for amendment of the Constitution if he finds it necessary. That is his birthright and it is not contempt of Court at all."

MRS. MONA HENSMAN :—"Mr. Chairman, Sir, I congratulate the sponsors of this resolution, for it seems to me that the subject-matter of the resolution brought forward by the Hon. the Deputy Leader of the Opposition to-day has to be considered on a high level and has to have principles interpreted in the light of Tradition. I think nobody has taken personalities into consideration to-day and this is an excellent thing, for I repeat that this is a question of principle and consideration of the welfare of the nation as a whole. Sir, I think the main argument centres round the interpretation of the word 'Merit'. Each side, I shall put it so, each point of view, maintains that merit means something which is essentially though slightly different, as perhaps there is some difference in the interpretation of forms of truth. Truth is many-sided, Sir. Many of us look at truth from different points of view.

[Mrs. Mona Hensman] [18th April 1951]

Now, in this matter of merit, I would like to make it plain that most of us who are women and all perhaps who have dealt with matters of education look upon merit not only from the point of view of marks obtained in an examination but also from the point of view of creative values or national values. I think the merits of a person cannot be decided by his or her performance in an examination paper alone. It may be, Sir, that by earlier habits, training and thought, a person fares well in an examination. But that is not necessarily merit. I think we have to consider certain other aspects also in order to decide the question of merit from a national standpoint. Sir, the hon. Member Dr. Lakshmanaswami Mudaliar knows as well as I do, that every hon. Member of this House may not be aware of that fact, that in the very old Universities or Oxford and Cambridge, there has been a material change in the ranking values of final examinations. In the Oxford University, there used to be awarded First and Second classes which were decided on 'Merit' which might be interpreted as based on marks. There are now no ranking in the First and Second classes according to marks—names appear in alphabetical order only. In the case of Cambridge University, ranks were given and in Mathematics the award of titles of Senior Wrangler and Junior Wrangler were much coveted recognitions. In fact, the Senior Wrangler was considered to be superior to all the Wranglers of his year. Similarly in this country of ours we have looked upon our own countrymen who were Senior Wranglers as being different, and superior to other Wranglers. Now Senior Wranglers in Cambridge are only called Wranglers and so a Senior Wrangler no longer holds a position of pride due to merit solely decided by marks obtained in an examination paper. Now everyone moves with the times. Here in North India there are two main communities. One community has distinctions of caste and creed, the other has no distinction of caste, but only creed. One community has allowed the distinction of caste and creed to come in very much because it is a question of survival of the fittest. In the case of the other communities, there is no such thing at all. Here in South India, it is even represented in this House, there are several different communities, different interpretations and backgrounds, different opportunities of advancement and learning; some of the communities by reason of traditional occupations have not concentrated on the education of their boys and girls. All have contributions to make to the national make-up and national mentality. I, in my community, have been fortunate, for we believe in the education of our women as well as of our men—and that enlightenment depends on personality. Perhaps the Supreme Court also may, in future, make some pronouncement giving a different interpretation of the relevant provisions. These interpretations are not unchangeable. Sir, times may change and circumstances also may change. Courts are after all made up of human beings. Therefore, different interpretations may possibly be given by different Courts, and the laws of the Medes and Persians do not obtain now.

18th April 1951] [Mrs. Mona Hensman]

"Then, Sir, Sri Suryanarayana Rao made some observations about admissions to professional colleges. He considered that admissions to post-graduate and research course should not be regulated by merit alone, since admissions to professional colleges is regulated by marks alone. Sir, it is but right in the case of post-graduate courses that marks should have undue precedence, because in these cases it all depends on the amount of actual knowledge possessed by the candidate in the particular subject. But, Sir, it is otherwise in the case of appointment to posts in Government service where Sri Suryanarayana Rao was arguing that the same criterion should be applied."

SRI R. SURYANARAYANA RAO :—"I never said that that principle should be applied to appointment to Government posts."

MRS. MONA HENSMAN :—"I think the argument was that in all matters the decision of the Supreme Court should prevail, i.e., merit decided by the accumulation of marks might be the criterion. That is what I gathered his argument to be. His point seems to be that in the present set-up, that would be the best method conducive to efficiency of administration. Sir, in one way Government posts have to be filled up by candidates selected on merit but merit decided on marks plus personality plus general efficiency. Candidates who can deal efficiently with the situations that may arise have to be recruited in the Police, the Judiciary, the Executive and other Services. But it is for the Public Services Commission in each State to decide whether the accumulation of marks alone is a fit test for judging the capacity of the candidates to deal with situations while serving in the Government posts."

"Sir, I have to make one other point with regard to promotion. Admission to colleges is one thing and promotion in service is another thing. Admission is on merit and promotion is a matter of experience and value contained in the records of each particular branch. If one cares to understand the procedure followed for admission to colleges, one will find that the Selection Committees go into the question of merit not only by the consideration of marks but I have also heard that the names of the candidates and even the names of the parents of the candidates are also inquired into. This means that certain other considerations than the marks alone enter into the minds of the Selection Committees in the matter of selection of candidates. Therefore, I, as a Member of the University, would like to protest against the Selection Committees of Colleges interfering like this in a matter of principle with the Principal's decisions, whatever they may be. I consider, Sir, that the only question the Selection Committees should keep in view is accommodation, staff and efficiency of the institution. I think it might be a very good thing if the Selection Committees depended on the Principal's recommendations in the matter of selection of students. That is by the way, Sir."

"As regards admissions to professional colleges, already so much has been said on this subject that I would not like to repeat

[Mrs. Mona Hensman] [18th April 1951]

the points myself. I do trust, however, that the hon. Members will remind themselves of what has been said on that subject and that wisdom will prevail.

"Then, Sir, another matter about which I want to say a few words is this. The community from which I come is one of those communities which have enjoyed some extra privileges in the matter of education. But the great amount of interest evinced by our women in the matter of education is due to the fact that they have been allowed to be educated along with men and that they have received the same education as men have. Is it right in this new Republic of India that what has been done hitherto only shall be done henceforward? Surely in the matter of privileges and opportunity we should seek to equalize merit and any Government Order is a matter not to the liking of many of us. Those of us who feel that the whole nation must come up and progress together think that merit should be recognized, and merit by accumulation of marks can be done when other things are equal. I would like to say here that not only my community but other communities like mine who have enjoyed much learning have got to be encouraged to allow others to be uplifted in the matter of education. But, Sir, on that account, we must not build up a barrier or artificial compartments. I think we should consider the progress of the nation as a whole, and in this matter I trust I carry the opinion of this House with me.

3-15
p.m.

"Sri Bhima Rao, Sir, read out an impressive list of names, most of them with an international reputation, to prove merit lay in marks alone, and most of the gentlemen mentioned by the hon. Member, Sri Bhima Rao, may have obtained first-class marks. But there are other important matters to be considered here. I can certainly add names of gentlemen and ladies to the list mentioned by Sri Bhima Rao, who have proved their merit not only in this country but also in other countries of the world who may not have obtained first-class marks but have personality and we are really proud of them. First among them comes my neighbour, Dr. Sir Lakshmanaswami Mudaliyar. Then comes his brother, Sir Ramaswami Mudaliyar, both names renowned throughout the world today. And then come the following:—Sir K. V. Reddi and Sir Mohammed Usman who were both Governors in this very City; Rajkumari Amrit Kaur, Mrs. Pandit, Mrs. Muthulakshmi Reddi, Dr. John Matthai, the late Dr. George Mathai, and Sir R. K. Shanmukham Chetti. In this manner, I could go on adding names to the list mentioned by the hon. Gentleman, Sri B. Bhima Rao, and he could extend his list likewise. I say this to prove that 'merit' has no walls."

MR. CHAIRMAN:—"Mr. R. K. Shanmukham Chetti was my class-mate. So, why not you include me also in the list?" (Laughter.)

MRS. MONA HENSMAN:—"Sir, I can claim you for my side, but I do not wish to embarrass the Chair! I only want to say that we can match glorious names for names. All of us from experience can give more names, but we do not want to embarrass people of fame. I only want to stress that merit has to be recognized not only by marks, but by other methods also.

18th April 1951] [Mrs. Mona Hensman]

"Sir, I now come to another important and burning problem, viz., the admission of women to the various colleges. Every June, a large number of women crowd into many of the educational institutions seeking admission and many of us are also approached by these women with the request that they may be helped in getting admission into one college or the other. At present, there are not enough colleges for women. Of course that there are any colleges for women is because our University has not gone in for private study. But for this, the position would have been still worse. I only want to take this opportunity to call upon the public and the authorities concerned to increase the number of women's colleges. I wish to urge that at least the number of seats in the Intermediate classes should be multiplied. I hope Sri Bhima Rao will bear me out when I say that, when girls approach me asking for letters of recommendation to the Principals of Colleges, I never ask them what their marks are, nor what their communities are. If there is merit in the girls or merit in their family, I give them the letter. It is for the Principals to decide whether they should be admitted into the college or not, and it is for the Principals to classify whether they are number 1, number 2 or number 3, in the list of admissions or refusals, and in what place they should be put and all that. I think you will agree, the Principal of the College to which these girls seek admission is the competent person to judge the suitability of these girls. It is the duty of those of us who write to the Principals recommending the admission of boys or girls into their colleges clearly to give our recommendation as to whether we consider those particular people really worthy of entering the college. As I said, marks are not the only criterion. Merit has to be judged by other methods also. A time may come when we will cease to ask to which community a particular person belongs and will simply recommend a person chiefly and solely for his merit of character and ability.

"Finally, I may state that when it comes to a question of promotion, especially in service, we should be guided by certain principles. The principle followed in our State is that we should allow all kinds of merit to count. Not only those who can memorise things, not only persons who can claim access to a great number of books, but also those who may not have stirred out of their places in the mufassal and also those who may not have very educated parents must be given equal opportunities to come up to the general high level. If the resolution that is brought forward to-day is carried, it will mean a very good and great forward step in this direction. If the resolution, on the other hand, is not carried, it will mean a backward step and a reflection on the high ideals of leadership for which we have stood and which, Sir, you represent in this House."

* SRI S. B. ADITYAN:—"Mr. Chairman, Sir, I wish to congratulate the hon. Mover of this resolution, who has so cleverly worded it. That resolution refers to the welfare of all classes and injustice to none. Nevertheless it brings to the forefront the question of merit as against communal justice. This

[Sri S. B. Adityan] [18th April 1951]

question has been agitating the public mind for the last 25 years or more. I feel that this question will be before the public for another 25 years or more, unless we find out a lasting and permanent solution for it. It can be argued that merit should be the chief consideration or communal justice should be the chief consideration. Then again, if merit should be chief consideration, it can be asked, what is merit, how to measure it, and whether it can be measured by marks. If it is said that merit cannot be measured by marks, it will be asked what is the yardstick by which merit can be measured. They say that marks merely help to find out the capacity of the candidates to memorise things. If the capacity to memorise things is not a proper test of an individual, what else can be the test? As against merit, the question of communal justice is brought forward. Communal justice means, according to some, that students of certain communities must be given admission into colleges in proportion to the population. There is a great deal to be said for it. But there is also a case against it. If a boy or girl belonging to a particular community who has secured 500 out of 600 marks is denied admission into a particular college and if another boy or girl belonging to some other community and who has secured, say, about 250 marks out of 600 is given admission into that College, can anybody stand here or anywhere and say that it is communal justice? This question of communal justice as against merit will agitate the public mind for a long time to come, unless we grapple with the real problem. The real problem is shortage of seats. We must enlarge the accommodation in the colleges. The number of seats available in the colleges must be increased. Sir, the High Court has given its decision in this matter. There was an appeal to the Supreme Court and the Supreme Court has also passed its judgment. Now, no one can question that judgment either here or elsewhere. The judgment of the Supreme Court is very clear. In plain English, it is stated in the Constitution that nobody should be denied admission into the Colleges merely on the ground of caste. The Supreme Court is perfectly right in passing that judgment. We ourselves approved of the Constitution. The draft Constitution was placed before this Council and we thoroughly discussed the matter including the Article about non-discrimination and approved of the Constitution. Is it now right to try to change the Constitution?"

DR. A. LAKSHMANASWAMI MUDALIYAR :—" On this very point, there was a different view."

* SRI S. B. ADITYAN :—" It may be so but the matter was discussed. It remains to be seen now how far it is worthwhile to change the Constitution in this respect. The object of the Constitution is to secure equity and justice for all. The Constitution has set out very high principles. These principles of justice and equity for all must stand so long as mankind lasts and must stand for all time. Because we find ourselves placed in some temporary difficulties, is it right to change the Constitution?"

18th April 1951] [Sri S. B. Adityan]

" The hon. Gentleman Sri Suryanarayana Rao mentioned that there was a simple way out of the present difficulty. It was said that the judgment of the Supreme Court related only to professional colleges and not to the Arts Colleges. The Government, it was said, have given instructions to the Principals of these Arts Colleges regarding the admission of candidates into those Colleges. If the Communal Government Order relating to admission into professional colleges is held, by the Supreme Court, to be against the Constitution, the instructions issued by the Government to the Principals of the Arts Colleges will also be against the Constitution. This will become clear if some one takes up the instructions of the Government before the High Court or the Supreme Court. I am sure that the so-called instructions will not have a better fate than the Communal Government Order. I feel that the solution does not lie that way. I suggest that a Committee may be appointed to go into this matter and find out a correct solution after taking into consideration all aspects of the matter.

" Sir, it was reported in the papers—I hope that it is wrong—that the Hon. Minister for Law said in the other House that he was trying to evade the judgment of the Supreme Court."

THE HON. SRI K. MADHAVA MENON :—" That is absolutely wrong."

SRI S. B. ADITYAN :—" I do not know. That is the report that has appeared. The Hon. Minister has probably mentioned that he was considering how best to circumvent, overcome, get over—or whatever word he might have used—the Supreme Court Judgment. I hope he will speak about this point in his reply. I may say that it is not practically possible to circumvent the decision of the Supreme Court. If they want, the Government can prescribe some other test, say a *viva voce* test or something like that. Or, they can desire some sort of weightage to those who score less marks. I was discussing this point the other day with a friend of mine. He mentioned, not entirely in fun, that the Government may prescribe an ingenious rule that a person who got less number of marks would be given admission in preference to another who secured more number of marks, thus recognizing demerit instead of merit. But, let me say, such tests even if advanced in all seriousness will not stand the ultimate analysis of finding a real solution. As I said, the real solution is to increase the number of seats available in the Arts Colleges and professional colleges. Taking the case of the Arts Colleges, I do not see why the number of seats available in them could not be straightway doubled. The subjects taught in the Arts Colleges are Literature, History, Logic, Mathematics and others. These subjects can well be taught under the shade of a banyan tree instead of insisting that they should be taught under huge buildings."

THE HON. SRI K. MADHAVA MENON :—" Sir, I want to inform the hon. Member that the Communal Government Order is not applied in the case of the Arts Colleges."

[18th April 1951]

DR. A. LAKSHMANASWAMI MUDALIYAR :—“ May I supplement the information given by the Hon. Minister by saying that about 1,200 seats were not filled up in the Arts Colleges? ”

MR. CHAIRMAN :—“ I was also about to say the same thing. The whole difficulty is that everybody wants to come and join the colleges in Madras.”

SRI B. BHIMA RAO :—“ Sir, may I submit in this connection, the case of a girl who applied for admission into the Queen Mary's College? She had secured about 82 per cent in Mathematics, about 69 per cent in English and equally good marks in other subjects. She was not given admission in the first instance. But, a fortnight after she had joined a College at Anantapur, she was asked to come and join the College at Madras. This is the position, Sir.”

SRI S. B. ADITYAN :—“ I take the statement of the Hon. Minister that there is no difficulty in regard to Arts Colleges. So far as the professional colleges are concerned, the same argument will apply. I would like to repeat my suggestion for the appointment of a Committee to go into the question and suggest how best the number of seats in the professional colleges can be increased. Take the Engineering Colleges. Why could not the number of available seats in the Engineering Colleges be doubled. Even in the case of an Engineering College, all the subjects do not require a laboratory. Big rooms and halls are not required for the teaching of all subjects. There are subjects like Dynamics, Hydrostatics, Applied Mathematics and others. These subjects can be taught even under the shade of a tree and the existing laboratories in the professional colleges could be put to better use. I would even suggest the introduction of shift system in these Colleges. I myself underwent post-graduate study in Physics, and so I know that all the subjects need not necessarily be taught in big lecture halls within the premises of a big College.

10 “ Most of the theoretical studies can be taught in other places,
12 and they certainly do not require big halls.”

MR. CHAIRMAN :—“ There must be teachers to teach. We must have more teachers and more teachers mean more money.”

* SRI S. B. ADITYAN :—“ I am only talking about boys who can afford to pay for their education. They must be given seats in the colleges and if there are no seats, means must be found to increase the accommodation by enlarging the colleges. Without constructing fresh laboratories, we can accommodate more boys. There are also other methods by which we can cater to the needs of more boys. After all, the practical studies occupy only one-eighth of the total number of periods allotted for the whole subject. A boy studying for Engineering course, whom I consulted on this matter, told me that only one-eighth of the period was utilized for practical work requiring a Laboratory and the rest was being taken for theoretical studies or subjects which do not require mechanical equipment. There is the question of staff of course. But as far

18th April 1951] [Sri S. B. Adityan]

as I know there is no dearth of suitable staff in our State. Educated people are suffering from unemployment and if they are given the opportunity, they will certainly come forward to teach.”

MR. CHAIRMAN :—“ The hon. Member has not understood me aright. I never said that there was dearth of staff. That was not my point. The hon. Member's point was, I take it, that the difficulty could be overcome by enlarging the colleges. If that is so, I was going to suggest that the hon. Member had said enough about it.”

* SRI S. B. ADITYAN :—“ I suggest, Sir, that a committee may be appointed to go into the question so that they can after a thorough study of the problem suggest suitable ways of putting an end to this communal question and also ensuring that all who seek admission in colleges get admission. That committee should be charged with the special work of finding out the possibility of increasing the number of seats in the colleges. Those of us, Sir, who have had English education are obsessed with English ideas. We must try to get away from those ideas if they are not suitable to us. Open air teaching is impossible in countries like England. For that reason, we should not assume that such a thing is impossible in our country. I have not come across a single college in this country which has adopted open air teaching. Our climatic conditions differ largely from those in England. We can have classes in the open air or under a tree as we have about 300 sunny days in the year.”

SRI A. GOVINDACHARYULU :—“ Mr. Chairman, Sir, I feel . . . ”

MR. CHAIRMAN :—“ There has been enough discussion on the Motion before the House. I would request hon. Members to be as brief as possible.”

* SRI A. GOVINDACHARYULU :—“ Mr. Chairman, it is indeed surprising that even in Independent India, under the National Flag, we speak in terms of classes and communities. To make or unmake a Constitution, some of our Friends are thinking, is a child's play. Sir, it is not a child's play to make a Constitution for a vast sub-continent like India consisting of a population of nearly forty crores and then to amend it simply because the High Court or the Supreme Court has given a certain decision. It is very surprising to ask the Legislature of a State to recommend a change in the Constitution overnight. That shows that we are not up to the mark in the art of administering our country. After all, this problem does not seem to be such a difficult one as we imagine. If some more colleges are built the whole problem will disappear automatically. The Government must take up this work of opening more colleges as their first charge. Certainly education is the first charge on any civilized Government. Why should a civilized Government, in the name of civilization close their doors against anybody? They must try to spread education throughout the country. Every man, whether he is poor or rich,

[Sri A. Govindacharyulu] [18th April 1951]

or belongs to this community or that community, must receive education. In fact, the difficulty is that those who are for the Government Order and also those against it think in terms of communities. The whole problem must be looked at from the point of view of social justice and economic justice. I ask the Government and all those friends who are for this Government Order whether they have been able to do justice to the so-called backward communities. Is a poor man able to put his boy in the Engineering College? Who is going to finance his education? The poor man is not able to provide higher education for his boy. He ever remains backward. So, Sir, the whole problem has to be revieved from the standpoint of social and economic justice. For instance, when a man applies for a seat in a college or for a job in a Government department, ask him to give particulars of his inheritance, such as extent of landed properties, etc. After so doing, the Government should prefer the poor man, of course, without sacrificing efficiency. The rich man is able to put his boy in the college, provide him with higher education and when he passes out gets him a job by influencing gentlemen in authority. He not only monopolises business—trade and commerce—but monopolises the administrative services also. This is what the Communal Government Order has done. Therefore, instead of our asking the Central Government to amend the Constitution which was drawn up by the most brilliant of men for the welfare of the people as a whole, let us ourselves take the initiative and open more Engineering Colleges and more Medical Colleges. There is nothing wrong in this. If need be, let us float loans for the purpose. Let us impose a poll-tax; I have no quarrel. But let us put an end to this nasty communal outlook and bickering. I for one never think in terms of community and religion. Only a few men can be accommodated in the administrative services. The rest have to eke out their livelihood elsewhere. It is not possible for any Government to keep all the educated men in Government service. To think in terms of job is also really nauseating; it is not conducive to the healthy growth of our democracy and our culture.

“With regard to recruitment to services, a good solution must be evolved. There are only a few administrative posts that can be easily distributed among the competent persons without causing any ill-feeling in any one. Sir, I must, in this connection, reply to the charge made by my Friend in the Opposition that Muslims are not being treated properly. As a student of Indian history and Indian polity, I must frankly, plainly and unequivocally state that the whole situation—both past and the present—in the country has been due to the communal hatred preached by the Muslim League. History tells us that it is the Muslims that started this communal tension. They continued it during the British rule. And still in this independent India, my Friend, an educated man, and a lawyer, comes forward and says that his community is not properly treated and that even under the communal Government Order he has not got that weightage which he had during the British rule.”

18th April 1951]

JANAB K. T. M. AHAMED IBRAHIM :—“You want weightage.”

* SRI A. GOVINDACHARYULU :—“What is the injustice that the Congress Government have done to the Muslim Community? You want the Communal Government Order and you want it to work in your favour. That is no argument. In the times of Lord Curzon on having . . .”

DR. P. V. CHERIAN :—“What, Lord Curzon?”

* SRI A. GOVINDACHARYULU :—“Yes, Sir. That is all history. Ever since separate electorates were demanded by the Muslims and were granted, the nationalist atmosphere in the country has gone and the poison has crept into the body politic of the country. The Muslim Leaguers are not satisfied still. They want more weightage. They think in terms of jobs and more jobs. Where are we, Sir? How are we to evolve a common citizenship for all under these conditions? We go on claiming rights and more rights but seldom do we think of our duty. Let me tell my Muslim friends: Think in terms of your duty as a citizen of India and then of your claims. Let us cease to think in terms of our religion when we are out to establish and develop a secular administration; an ideal administration for the whole world to copy.

“Let us think in terms of the independence of India and in terms of the 40 crores of the people of India. Let us not think in terms of our own selves, our own community, our own State and let us ask our Government to put an end to this sort of communal bickering in our State by building more colleges and raising the necessary funds for this by even raising loans and doing the needful. Let us all pull together here as friends, as brothers and as free citizens of a free India.”

SRI S. JAYARAMA REDDI :—“Sir, it is very kind of the hon. Member Sri Mudaliyar to have moved this resolution. This is perhaps the first and the last time he ever dared to move a resolution.”

AN HON. MEMBER :—“Why say last time?”

SRI S. JAYARAMA REDDI :—“Sir, he is not given to moving resolutions. If a man of his stature and standing in political life—whoever knows his family in the Tirunelveli district—would not think that his family is given to job hunting or anything of that sort, has moved this resolution it is only to show the exact feeling that is prevalent in the State. It is in that view I think he has given notice of this resolution and moved it. I want to support this resolution because I think it is my duty to impress on the Government and the people elsewhere the feelings that are existing in this State on this particular question. Nobody need think that any personal gain or profit is to be made out of it. We must face facts. This communal Government Order was existing in our State for the last so many years. As a result of the new Constitution and as a result of the decisions of the High Court and the Supreme Court it has become necessary to scrap

[Sri S. Jayarama Reddi] [18th April 1951]

this Government Order. But what would be the situation that would be created by such action? The Madras Government has taken stock of the situation and if anybody misunderstands the views of the Government, I think he loses sight of the whole situation in the State.

"Sir, the communal Government Order operates on two lines, one with regard to the admissions to colleges and another in regard to the selection of personnel for the services. My hon. Friend Sri Adityan has suggested that by opening a number of colleges the problem of admission to colleges could be solved. But when we come to the question of recruitment to the services, merit has to be taken into consideration. To overcome this difficulty you cannot go on increasing the number of posts. The recommendations of the Retrenchment Committee are already there. The hon. Member Sri Suryanarayana Rao has been saying that the expenditure on the services is already very heavy. If at all I spoke on previous occasions, on the budget, I was always saying that the expenditure on the services was too much. What is to be done if merit alone were to be taken into consideration? What will be the result if recruitment is made on the results of competitive examination? As a matter of fact when I asked one of my friends who happened to be in the college selection committee as to what would be the result if merit alone were to be taken into consideration, he said that at least 95 per cent of the seats would go to candidates of a particular community."

AN HON. MEMBER :—" Merit or marks."

SRI S. JAYARAMA REDDI :—" I mean if marks were to be the criterion, the result would be that. If this is to be considered as fair play and justice in this country I think we are on the wrong track. We must look at facts. What was the reaction to the first order of the Congress Government, namely, that 20 per cent of the seats should be filled up on merit alone? The previous Minister for Education, Sri Avinashilingam Chettiyar told me that out of 74 seats in one particular technical college only ten went to other communities and the rest went to members of a particular community. That was the result of the first experiment. What I would ask hon. Members to bear in mind (Members like Sri Govindachari who said that we should not think in terms of community and other things) is that they should not think of their own community first. Sir, the other day I was travelling with an eminent lawyer with whom I could not argue so very well and seeing my Khaddar dress he asked me: 'What are you?'. I said I was a legislator. Immediately he got angry and began to scold the Madras Government for supporting the communal Government Order and for making a representation to the Centre. We were the only two persons in the compartment and I could not get out of the compartment. He was travelling with me up to Madras. I put him a straight question: 'Do you want a sympathetic man to be in power, a man who would sympathize with

18th April 1951] [Sri S. Jayarama Reddi]

your community, or a man who would be reactionary'. Then he cooled down and said that the Government should try to open more colleges and thus solve the problem.

"Sir, I want to point out that admission to colleges is not the main problem. I am sure the more corrected thing is the services. Nowadays services are attractive not only on account of the pay but because of the patronage that is behind it. That is important. A gentleman who happened to travel with me some time back and who had returned from America told me that in America they advertised in the cinemas asking people to join the services. 'Join the service and serve the country', is the advertisement, he said that appeared there. Here our economic position is such that everybody is going about asking for patronage to get some position here or there. These are the exact words they use: 'என் பிள்ளைக்கு ஏதாவது வேலை பார்த்துக் கொடுத்து அவனைக் காப்பாற்றிவிடுங்கள்'. By getting into the service they can solve the life's problem. That is the state of things prevailing here. With all these things in the background the Government must do something to solve the problem without bringing about confusion in the State. It is in that light that people should appreciate this question and co-operate with the Government to solve the problem."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" Mr. Chairman, Sir, I thank the hon. Members who gave their whole-hearted support to my resolution. It is not my intention to blame the hon. Members who spoke against the resolution. I take it that they have expressed their views in the matter. I want to make it clear that it is not my intention to flout the orders of the Supreme Court. I have nothing more to add now than to request the Government to take very early steps to remedy the difficulties. Thank you, Sir."

* THE HON. SRI K. MADHAVA MENON :—" At the very beginning I want to make the position of the Government clear in this matter. But for certain references that were made as to what the Government should do or what the Government should not do, and to say a few words on what Government have to say on certain of the suggestions and remedies that have been suggested by hon. Members, I would not have intervened in this debate even at this stage. I have also to explain certain provisions of the Constitution which were referred to during the debate.

"Sir, this is a very delicate matter and I, from my responsible position of a Minister of this State, have been saying this from the very beginning. I have to be very careful and guarded in saying anything about this very controversial and difficult problem. My personal feelings may be one thing but as an administrator I cannot take ideals alone into consideration. I have to face the realities. The hon. Member Sri Adityan referred to what English education has given to people who were fortunate to have their education in England. We cannot have things like that. Again some of us may have ideals as my hon. Friend Sri Govindachari

[Sri K. Madhava Menon] [18th April 1951]

has his ideals about independence and so on. I too may have my personal ideals. But, I may state that it would be advantageous, for my district, to give up the communal Government Order. We in our district are so poor that we have learnt to compete in the open competition and succeed. As far as my district is concerned or my community is concerned, if it is love of community or whatever it might be, it will certainly be an advantage. But whatever may be my personal feelings in the matter, I have to take the realities of the situation. I have to understand the position in the country, not merely the admission of a few students in the colleges, be they professional or arts colleges or a few jobs here and there and the effects of the thing on the community as a whole and the well being of the State as a whole. Even from the point of view of law and order this has to be considered by us who have to administer such matters. And so, Sir, it is that feeling that makes me interested in certain points that have been raised during the debate.

"Sir, there is this question of merit. The hon. Member Sri Bhima Rao has his own yardstick. Hon. Member Sri Govindachari has another and we have heard much about merit from experts like hon. Members Dr. Lakshmanaswami Mudaliyar and Dr. Cheriyan. In this connexion may I suggest to hon. Member Dr. Lakshmanaswami Mudaliyar, Vice-Chancellor of the Madras University, one thing? I have heard that in certain Western Universities and in England also, they do not give marks at all but only the class. They say, so many first-classes, with distinctions obtained in subjects, if any, and never give the marks. Why should not our Universities also follow that example which would certainly be a test of merit? What is the difference between 75 marks and 74 marks—I cannot see any except the difference in the temper of the examiner. When he was in a good temper he might have given 75 marks and at another stage when he was in a bad temper he might have given 74 marks. I myself had occasion to correct certain examination papers when I was for a few days working as a teacher on behalf of somebody else. I knew that much depended on my temper at the time of valuation of the paper, whether it was after food or before food, whether I was irritated or otherwise. Of course, the fundamentals will be there, that is, marks for questions will be there. Giving 75 or 74, adding half a mark here and giving half a mark less there, is not very real or so much to be counted when we say simply that a class will be given. By adopting that example we could do much help. The hon. Member Mr. Suryanarayana Rao said, 'Thanks for the good start that you have made in allowing the resolutions at such short notice.' But, when I ask him for a solution, he says I should not have allowed the resolution, by waiving notice. It is very, very easy to set a problem. It is not very easy to find a solution for that problem. The hon. Member Mr. Suryanarayana Rao said, 'Why don't you follow that wholesome procedure you are following in the case of Arts Colleges?' Sir, let me make it quite clear that there is no problem at all so far as the Arts Colleges are concerned. This year the number of admissions to S.S.L.C.

18th April 1951] [Sri K. Madhava Menon]

course has gone up to 80,000 and even so there is no problem so far as the Arts Colleges are concerned. The difficulty is that everybody wants admission into the Madras City colleges. First preference is given to the Presidency College or the Loyola College or the Christian College. It may be due to their reputation. Whatever it is, a sort of exaggerated importance is being given to a particular college. The hon. Member, Mr. Suryanarayana Rao, said that in the instructions we had not said that the communal Government Order should be applied there. As far as possible, the Principals are given the discretion to do justice to all communities; particularly the case of backward communities should be looked into and that is not against the Constitution or the Supreme Court judgment. The difficulty is only regarding professional colleges. There are only two professional colleges, Engineering and Medical, in this State and the maximum number of seats is about 400 in each and the number of applicants that we have to deal with is about 2,000 for each. The hon. Member, Mr. Adityan, said that we could as well increase the number of seats or hold classes under trees. Sir, I have heard that our *Rishis* used to hold classes under trees. But, the number of students then was about half-a-dozen and now the number is running into hundreds."

SRI MOTHEY NARAYANA RAO :—"Vasishta had 80,000 students."

THE HON. SRI K. MADHAVA MENON :—"Eighty thousand or one lakh of disciples or followers, but not students."

SRI MOTHEY NARAYANA RAO :—"Students only."

THE HON. SRI K. MADHAVA MENON :—"No, they were not students. I too have read something."

MR. CHAIRMAN :—"I think that in those days one who had 10,000 disciples used to be called 'Guru' or 'Kulapathi'. I think the hon. Member includes disciples past and present."

THE HON. SRI K. MADHAVA MENON :—"Ekalaiva took Dronacharya as his Guru and studied without seeing him. Whatever it is, Sir, it is not possible in Madras to hold classes under trees during the season May to September. Even the great Banyan tree in Adyar cannot give sufficient shelter to hold classes. Trees may give us shelter from sun but they won't give us shelter from rain. Under the present methods of learning, even if the Madras University which is very very strict about accommodation (and rightly so) gives permission, where are the trees under which we can hold classes? Sir, it is very easy to say. It is not a practical proposition."

"Then hon. Members, Mr. Bhima Rao and Mr. Govindacharyulu, said that we could increase the number of colleges. I agree. It is a very good solution. But, I require about Rs. 4.0 crores for starting one Engineering College. We are giving a recurring grant of Rs. 3.0 lakhs to the Annamalai University for running the Engineering College alone. If we want to have a College like the

[Sri K. Madhava Menon] · [18th April 1951]

one at Guindy, where is the money? Then, they said that we could borrow money. Even if we dump Rs. 4.0 crores, we cannot have the building, and equipment in a day. I have to deal with the problem tomorrow, not a year or five years after. The Engineering College at Kakinada is three years old and the University is not satisfied with the buildings we have. The Engineering College at Coimbatore is four years old and it is housed in Nissen sheds and I will be glad if the Vice-Chancellor will not tell me tomorrow that he will withdraw the recognition unless we provide better buildings. That is the case where this House has voted money and where the money is already given and yet we are not able to provide buildings. So, Sir, it is not looking at things in the reality. When that is the position, what are we to do?

“ Sir, for argument's sake, I shall concentrate upon Scheduled Castes, Scheduled Tribes and Harijans. Is there any member in this House that would object to such reservations? Even Mr. Bhima Rao, I am sure, will say, ‘ All right, don't have reservations for communities like Muslims, Reddis and Nayudus. You may have reservations for Harijans.’ Sir, last year if admissions to colleges were to be made on the basis of marks alone, no Harijan would have been admitted and only one Muslim would have been admitted to the Engineering College. Is that the consummation that any Member of his house would like to, forgetting for Scheduled Castes, Scheduled Tribes and Harijans? Will the hon. Member, Mr. Bhima Rao, with his knowledge of law read Article 20, clause (2), and say whether I can make reservations for Scheduled Castes, Scheduled Tribes and Harijans? He will say, ‘ No, not at all. It is impossible. The Supreme Court has already given its decision.’ Sir, regarding the question of admissions to colleges, it is said under Article 29 (2), ‘ No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.’ There is no provision for Scheduled Castes and Harijans. There is an inconsistency in this Constitution and it is our duty to point it out. Article 46 says—

‘ The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.’

The High Court says that Article 46 is a directive principle and is only a pious wish which is not justifiable in a court of law and it cannot contravene the fundamental right. The courts have interpreted like that. I agree that they are intended for that and I am one of those, perhaps more loyal than hon. Members, Mr. Bhima Rao and Mr. Adityan, who believe that we should certainly obey and accept the decision of court so far as the interpretation of law is concerned. I will be the last person to say that we must evade or circumvent it. Even if the hon. Member, Mr. Suryanarayana Rao, suggests or the hon. Member Mr. Adityan suggests that we three all of us should sit together and find out means of circumventing the decision of the court, I shall not be a party to

18th April 1951] [Sri K. Madhava Menon]

that. A directive principle is given in Article 46, viz., ‘ The State shall promote with special care the educational and economic interests of the weaker sections of the people . . . ’ But the courts have held that it is only a pious wish. Sir, I may say that it was never the intention of the Constitution-makers. These directive principles were like the Instrument of Instructions which were intended to be followed. If we are following Article 46, it is circumventing the decision of the Supreme Court? I was rather amazed at some of the arguments advanced by the hon. Member, Mr. Bhima Rao. Sir, I entirely agree with almost every word that the hon. Member, Dr. Lakshmanaswami Mudaliyar said. If a particular boy has not been admitted to a college, it is the concern of his parents or his family—whatever be the class the boy has got and whatever be the community to which he belongs. The hon. Member, Mr. Bhima Rao, said that in Bellary one who got cent per cent marks could not get admission while another who got cent per cent was admitted. Sir, whatever it is, a boy who has got cent per cent is admitted. Sir, the Madras Medical College reserves 2 seats for students of Travancore-Cochin State. Suppose there are 4 students who have got cent per cent marks and we select two out of the four. When the Madras Government have reserved 2 seats for students from Travancore-Cochin and when there are four candidates who have got all cent per cent, we cannot but reject two candidates. What is the use of complaining when the seats are limited? Then hon. Member, Mr. Bhima Rao, will say, ‘ You should not change the Constitution as it would be a sacrilege to do so.’ Sir, it is just like a passenger who has got into a third-class compartment and who has secured space to sit on, forbidding others to enter. (Laughter.) In the same way, the hon. Member, Mr. Bhima Rao, says that the Constitution should not be amended irrespective of the fact that it works tremendous hardship on others as his position is secure. That is the mentality that we are having to-day. If we want to perpetuate this injustice, I dread the consequences. I have been telling from the platforms all through and I say it even in this House that the Non-Brahman students, even if they are backward, should not say that the Communal G.O. should be retained because it shows that they are idiots, that they cannot apply their minds and study and that they cannot compete. Still when all is said and done, I cannot forget the realities of the situation.

“ Sir, Mr. Bhima Rao, Mr. Govindachari and others were saying 4-15
that we should maintain our old Indian traditions and things like P.m.
that. There is a difficulty in this. I will give an illustration, Sir. When I was young, I had the opportunity of reading the Uttara Ramayana, the famous drama of Bhavabuthi. It is stated therein that Sri Rama killed a Sudra. For what purpose? It is because that Sudra had the impudence to pray to God and do penance. There is a beautiful verse which Bhavabuthi has written which gives the following story.

“ Sir, Sri Rama kills a Sudra because he was praying to God or making Tapas, as it is called. Bhavabuthi gives a wonderful

[Sri K. Madhava Menon] [18th April 1951]

reason for Sri Rama to kill that Sudra. It is this. A boy dies during Sri Rama's regime. Sri Rama says, 'How can an infant die in my regime? My Government is so perfect that not even an infant can die'. So, Sir, he wanted to know the reason for the death of the boy. People made enquiries and ultimately it was found that the infant died because a Sudra was performing penance or Tapas. On hearing this, King Rama goes to kill the Sudra with his sword. Bhavabuthi in his inimitable poem describes how the Sudra was doing penance known as *सिरसासनम्* standing on his head. Rama takes the sword and wants to cut off his head but the hand would not move. Then, he says to his right hand, 'When my wife Sita, who was such a devoted and loving wife to me, was pregnant, I had the courage to discard her and send her to the forest. When I had so much courage then, how is it, my right hand, that you fail me now and how is it that you feel shy?' That is what he says. Ultimately, Sir, Sri Rama kills that Sudra. That is the story. Then, Sir, while I was a little boy, I was studying Neethisaram. One of the slokas which I studied was :

स्नानमध्वं गजे मत्तं ऋषभं काम मोहितम् ।

शूद्रं अक्षरं सम्युक्तं दुरतः परिवर्जयेत् ॥

That means that the things which are to be cast off or discarded and kept at a distance are a horse that shakes its body after bath and runs away, a rogue elephant, a bull in a passionate state and a Sudra who has learnt to read and write. Sir, these are to be cast miles away. That was the wonderful civilization, which we had, Sir, in those days, two thousand years ago. For two thousand years, a set of people were training and developing their intellect for generations while the rest of the people were compelled to remain illiterate and ignorant. Now, you are asking the latter to compete openly with those who have been trained for generations. I am not going to tell this to students but only to members of this House so that they may realise the inequity of it. You want me to compete with this serious handicap. Sir, in those days, if I studied, my tongue would have been cut off. Now, we have developed our civilization and the position fortunately is not what it was. So, I want you to have a little bit of charity in these matters. It is a bounden duty cast upon us that we the Government should help those who are backward a little bit. But, on the other hand, it is said, 'No, the Constitution has given us such and such rights. You remain where you are'. Sir, as hon. Members, Mr. Adityan, Mr. Govindachari and Mr. Bhima Rao, said (it may not be possible to amend the Constitution. If that is so, woe unto us. I dread the consequences. But, I hope the consequences will not be anything serious. So, Sir, it is not at all cavilling at marks as the hon. Member, Mr. Bhima Rao, said. He said that it was a sort of cavilling at this system of marks that we were doing and perhaps to emphasise this point, he gave a catalogue of names of renowned gentlemen like Sir Benegal Narasing

18th April 1951] [Sri K. Madhava Menon]

Rao, Sri Benegal Rama Rao and others. In this connexion, who-ever said, may I ask him, that these type of men should be prevented from studying? He may also quote the name of Sir A. Ramaswami Mudaliyar, who, I undersand, was not a first-class in any of his examinations but has made a brilliant name in international circles and brought credit to our country. Have any of these eminent persons passed in first class? Hundreds of Ramaswami Mudaliyars would have come in only if they had opportunities such as those that Benegal Rama Raos and Benegal Narasing Raos, referred to by my hon. Friend, Mr. Bhima Rao, had. I would only quote the verse—

Full many a gem of purest ray serene
The dark unfathomed caves of ocean bear
Full many a rose was born to blush unseen
And waste its fragrance in the desert air.

Such being the case, Sir, only other people had no opportunities. Otherwise, there would have been hundreds of Benegal Rama Raos and hundreds of Benegal Narasing Raos. Hundreds of Ramaswami Mudaliyars would also have been there. The hon. the Lady Member, Mrs. Hensman gave the names of persons who have risen to eminence without having a brilliant academic career. Sir, Mr. V. P. Menon who is now appointed as Governor of Orissa State has not even passed the Matriculation Examination. So, Sir, there are people who have escaped the handicaps mentioned above. Our contention is, Sir, that these handicaps should not be there and that there should be some sort of equality of opportunity. Sir, the esteemed Gentleman, Dr. Lakshmanaswami Mudaliyar, suggested and I am also repeating the same that those who vociferously plead for the abolition of the Communal Government Order *in toto* and those who fanatically plead for its retention as it is, are both rank communalists. But, I would suggest that a *via media* should be brought about. You should not say that the Communal Government Order should go nor should you say that it should be retained word for word. I am saying this in order to avoid repercussions and embitterment. Sir, if I plead for the retention of the Communal Government Order, it is not because it is the decision of this Government but because we do not want to be a party to these repercussions and embitterment in a State like ours. Sir, Government had no intention of taking part in this debate; but the reference made to them in the course of the discussion has compelled me to intervene and explain the position. Sir, I have already made it clear that the Madras Government have been in correspondence with the Government of India in his matter and why we have done so has also been made clear. I should repeat here that we should not make the position worse than it is now.

Sir, I may also say this. Though the Government have reserved to themselves the right to fill twelve seats in the professional colleges, in practice, nine out of these twelve seats went to Brahman boys. Sir, it is not as though we are keeping this right to fill up certain seats in our hands to show any particular patronage to particular people.

[Sri K. Madhava Menon] [18th April 1951]

"Sir, this Government do work as a Secular Government, as the hon. Member, Mr. Suryanarayana Rao said, but they have to reserve in their hands the power of admission to a certain number of seats. These are kept in the discretion of the Government because they have to satisfy the families of Government servants who die in harness or political sufferers, whether they be Brahmans or non-Brahmans. Even there, Sir, if I remember correctly, nine seats went to Brahmans and three only went to non-Brahmans. If we only wanted, we could have easily given all the twelve seats to non-Brahmans. Of course, it is very painful to me to express all these, but it is better to express these things and understand each other well. Sir, when one hears the charge of communalism repeated indiscriminately, one is tempted to give an example. There is a place in Travancore where elephantiasis is prevalent to a large extent. A man with elephantiasis would bury his legs in sand and, thus hiding them well, if another man with elephantiasis went by that side, he would call that man as 'elephantiasis-wallah'. So, Sir, by hiding his own leg affected by elephantiasis, he does not become a man with a normal leg. So also is the case with communalists. It is only those people who always think of communalism who hide their own communal-mindedness and try to criticize others as communalists. So, everybody should realize this position and show a little bit of consideration. Sir, I am not asking that the Communal Government Order should be framed in such a way that the term 'Non-Brahmans' would include Malayalees. If I do so, my community people will take me to task. Sir, I am prepared to compete with other people. We are prepared to compete even if you class us along with Brahmans. Actually, a friend told me, 'Your community is as bad as Brahmans.' So, Sir, we are prepared to compete even with Brahmans. But, Sir, there are certain other communities which require protection and which have to be protected. But, according to this Constitution for which I have the greatest admiration and to which I have taken the Oath of Allegiance, I cannot do it. Sir, Article 16 (4) of the Constitution says—

'Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.'

But, Sir, in implementing this, difficulty arises. Moreover, Sir, in one Article, the Constitution says that we should not prohibit persons from having equal opportunities. At the same time, in this Article, the Constitution wants to protect certain backward class of citizens. Sir, this is an inconsistency in the Constitution which the makers of the Constitution did not notice. Again, Sir, what is mentioned in Article 16 (4) is 'Backward class of citizens'. Sir, there are a number of backward classes and even if we make thirty per cent reservation for backward classes, not a single Harijan will come in. Only the other backward class people will take advantage of this. Therefore, Sir, there is no provision in the Constitution to protect the interests of the Scheduled classes as such. Even Article 46 says that the weaker sections of the

18th April 1951] [Sri K. Madhava Menon]

people should be protected. I ask, Sir, what protection the Scheduled classes will get if we should protect the interests of 'backward class of citizens' as mentioned in Article 16 (4)? As I said, Sir, there are communities other than the Scheduled classes who are also backward that will take advantage of this provision and the Scheduled classes will not get the benefit.

"Then, Sir, the hon. Member Mr. Suryanarayana Rao suggested that himself, the hon. Member Dr. Lakshmanaswami Mudaliyar, myself and three or four such persons can sit and settle this matter. Sir, if we do so, it will be an attempt to circumvent the Constitution and to circumvent the decision of the Supreme Court. So, Sir, I say that we must take the realities as they are. We must also see whether Articles 29 (2) and 46 are consistent with each other. Sir, we do not want to circumvent the Constitution. I can say this much that any such arrangement as suggested by the hon. Member Mr. Suryanarayana Rao would never work well. That is my honest opinion. Therefore, Sir, it would be more graceful to send a resolution of this nature to the Government of India and they must see how, consistent with the decision of the Supreme Court, the Constitution can be amended. That is the straight and royal road that I would tread and that is also the right thing to do in the circumstances.

"As I said, Sir, after hearing the Supreme Court judgment, we have placed before the Government of India the position as it exists in this State. We have also discussed this matter in this House and we have shown how there are certain inconsistencies and how it will not be possible for us to give protection to Scheduled classes and tribes—which I am sure hon. Members in this House have not seen before—because it is a difficult matter to say who should be called backward classes. Sir, as I said, the Scheduled classes and tribes deserve some kind of consideration and protection and some kind of pulling-up from the pit, as it were, in which they have been all these two thousand years. So, it is necessary that we should make some provision and we should try our best to see how that can be done.

"The hon. Member Sri Govindachari said that it was unfortunate that there should be this nasty communal outlook. It is just like the traveller in a third-class compartment I referred to above. We feel that everybody else is nasty except ourselves. We may be nasty but we will complain that others are nasty. 4-30 p.m.

"Sir, there is proverb, 'Give the dog a bad name and hang it'. Don't give the Communal Government Order a bad name. It is only an attempt to do justice as between the various communities. Sri Govindachari pleaded for equity and social and economic justice. It is perfectly right that we should do economic and social justice. Suppose I have a son; when I am a Minister I can employ half-a-dozen tutors and coach him up at home. I may have the necessary atmosphere for coaching him at home. I can also have a replica of the laboratory in my house. But what is the position of the son of an ordinary man in the street not to speak of a Harijan

[Sri K. Madhava Menon] [18th April 1951]

or a Scheduled Caste man? What is the social justice and economic justice that Mr. Govindachari wants to do to him? He says that when we have become an independent republic we should not have this communal outlook. But should we not give these ordinary students an opportunity to sit along with my son in the college so that they may get from the college what they cannot get at home? Should that not be done? Should it be said, 'No; keep them down' **दुरतः परिवर्जयेत्** Should you continue that policy for ever? Should those who have gone down be kept down for ever? I agree, Sir, that this unfortunate thing, this nasty communal outlook should certainly go, but should I eschew communal outlook while my traducer has the same outlook all the time? That is not fair. It must be applied equally to both sides. The less we say that the people who want to retain the Communal Government Order are communalists the better for all, because such talk unconsciously exacerbates the feelings not so much of the people who sit here in this House as of those people outside who are less advantageously situated. They will feel it more. The promotion of the common good must be the desire of all of us, so that when the hon. Member Mr. Kumaraswami Mudaliyar brought forward a most innocuous resolution like this saying that the Government should take into consideration the present position and take such measures as will conduce to the welfare of all classes of citizens, everybody should support the resolution and not oppose it.

"This is all that I have got to say, Sir. I have already made the position of the Government clear. The Members of our Party are free to vote as they like in this matter. The Government would not take any part in the voting, but they will abide by the decision of the House."

MR. CHAIRMAN :—"The question is—

'This House recommends to the Government in view of the decision of the Supreme Court in relation to what is known as the Communal Government Order to adopt such measures as are necessary for admission in the Government professional colleges and appointment in Government services as will conduce to the welfare of all classes of citizens.'

The resolution was carried.

MR. CHAIRMAN :—"Does the hon. Member Mr. Suryanarayana Rao want to move the resolution standing in his name?"

SRI R. SURYANARAYANA RAO :—"I do not propose to move my resolution, Sir."

MR. CHAIRMAN :—"The hon. Member Mr. Ramanathan Chettiyar is not here and we take it that his resolution also is not moved."

"The House will now adjourn *sine die*."

The House adjourned *sine die*.

18th April 1951]

APPENDIX I.

Vide answer to starred question No. 218 asked by Sri R. Suryanarayana Rao at the meeting of the Legislative Council held on 18th April 1951, page 1057 supra.]

STATEMENTS SHOWING BY DEPARTMENTS OF POSTS ABOLISHED AND SAVINGS EFFECTED.
Posts abolished up to 30th June 1950.

Department	(1) Number of posts on a pay over Rs. 1,000 per annum.	(2) Resultant savings per annum.	(3) Posts on a pay of Rs. 1,000 and below.	(4) Resultant savings per annum.	(5) Posts in Subordinate services.	(6) Resultant savings per annum.	(7) Posts etc. of peons.	(8) Resultant savings per annum.	(9) Total number of posts abolished.	(10) Total savings per annum.
1 Rural Welfare Department— Rural Welfare Secretariat Field staff in the selected firkas and centres.	..	..	..	..	1	..	204	94,378	1	4,700
	..	..	..	..	1	..	204	94,378	204	94,378
	..	..	..	..	1	..	204	94,378	205	99,078
2 Local Administration Department— Local Administration Secretariat	..	..	..	..	1	..	1	468	2	1,168
3 Legal Department	..	..	..	..	..	..	1	492	1	492
4 Revenue Department— Revenue Secretariat	..	..	..	..	4	12,474	2	1,071	7	21,602
Land Revenue Department	..	..	..	..	..	14,598	1,828	8,00,030	1,828	8,00,030
Excise Department	..	..	..	..	12	14,598	17	9,861	29	24,459
Registration Department	..	..	..	..	14	12,936	4	1,920	18	14,856
	..	..	..	..	30	40,008	1,851	8,12,882	1,882	8,60,947

[18th April 1951]

Department	(1)	(2) Number of posts on a pay over Rs. 1,000 per annum.	(3) Resultant savings per annum.	(4) Posts on a pay of Rs. 1,000 per annum below.	(5) Resultant savings per annum.	(6) Posts in Subordinate service.	(7) Resultant savings per annum.	(8) Posts of persons.	(9) Resultant savings per annum.	(10) Total number of posts abolished.	(11) Total savings per annum.
5 Finance Department—											
6 Public Works Department—											
Provincial Broadcasting Department	..	..	..	..	..	3	9,000	..	..	3	9,000
Madras General Subordinate Service	..	1	12,800	..	..	..	..	..	..	1	12,800
Public Works Secretariat	..	..	..	..	..	11	7,234	7	1,680	18	8,914
Public Works Information and Publicity Department.	..	..	..	..	..	25	12,780	1	720	6	18,500
Highways department	..	..	..	..	..	1	1,708	1	556	2	2,264
..	..	1	15,600	1	5,544	22	29,549	106	50,625	130	1,01,318
..	..	1	28,200	1	5,544	39	51,271	115	53,581	157	1,38,596
7 Home Department—											
Police Department	..	..	..	2	12,264	..	..	1	648	3	12,912
Transport Department	..	..	..	..	..	..	..	17	8,045	17	8,045
Judicial Department	..	..	..	..	..	27	26,648	49	13,046	76	39,694
Home Secretariat	..	..	..	..	..	3	11,100	..	..	3	11,100
..	..	2	..	2	12,264	30	37,748	67	21,270	99	71,751
8 Health Department—											
Medical Department	..	..	..	2	6,000	7	11,982	8	3,906	17	22,088
Departments of Indigenous Medicine	..	..	..	..	..	..	..	2	984	2	984
Public Health Department	..	..	..	3	25,400	14	20,300	11	5,900	28	51,800
Town-Planning Department	..	..	..	..	..	6	10,368	..	..	6	10,368
..	..	5	..	5	31,600	27	42,650	21	10,790	53	85,040

9 Development Department— Registrar of Co-operative Societies Department.

Director of Cinchona	..	..	..	..	..	8	11,740	7	3,460	15	15,200
Director of Industries and Commerce	..	..	..	..	..	9	19,917	3	1,488	12	21,400
Director of Fisheries	..	..	..	..	..	3	3,552	..	..	3	3,552
Director of Animal Husbandry	..	..	..	6	..	17	..	18	..	41	49,491
Development Secretariat	..	..	..	..	..	..	..	1	492	1	492
Forest department	..	..	..	..	..	3	4,300	..	..	3	8,300
..	..	2	..	2	10,400	137	1,99,214	26	12,792	165	1,54,306
..	..	8	..	8	18,300	177	1,72,723	55	18,227	240	2,52,741

10 Public Department—

Chief Secretariat	..	2	..	19	..	85	..	44	..	150	6,50,968
11 Food and Agriculture Department—											
Civil Supplies Department	..	..	..	..	..	1	3,400	..	..	1	2,400
Agriculture Department	..	..	..	6	..	292	..	150	..	448	2,65,700
..	..	..	..	6	..	293	..	150	..	449	3,68,100

12 Education Department—

Superintendent of Stationery	..	..	..	..	..	2	1,765	..	..	2	1,765
Director of Public Instruction	..	..	..	..	..	34	..	62	..	96	51,587
..	..	..	..	..	..	86	1,765	62	..	98	58,352
Total	..	4	..	42	..	752	..	2,571	..	3,339	..
..	..	..	..	..	..	..	..	..	..	Total	25,91,234

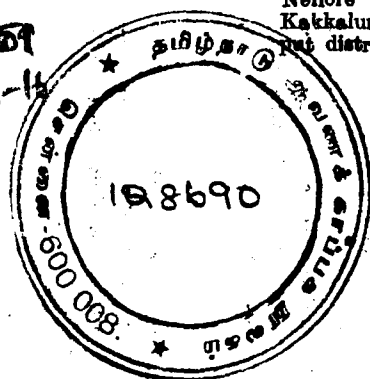
Classified
45Non-gazetted
3,293

[18th April 1951]

APPENDIX II.

[Vide answer to starred question No. 219 asked by Sri B. Bhima Rao at meeting of the Legislative Council held on 18th April 1951, page 1058 supra.]

Serial number and names of educational institutions affected by the passage of the Madras Estates Land (Reduction of Rent) Act, 1947 and the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948.	Particulars regarding the management or income of the institutions prior to the taking over of the management of the estates by the Government.
1 The M.R. Sanskrit College, Vizianagaram.	Maharaja of Vizianagaram.
2 The M.R. Music College, Vizianagaram.	Do.
3 The S.R.R. and C.V.R. College, Vijayavada.	A Committee with the Zamindar of Vuyyur as President. The College is managed by the fund contributed by one Sri C. V. Reddi of Vijayavada and from the income of Valeru village in Vuyyur Estate.
4 The S.R.R. High School, Nuzvid.	District Board, Krishna, from the income of Mantera village in Vuyyur Estate.
5 The S.R.R. Free Elementary School, Nuzvid, Krishna district.	Zamindar of Vuyyur from his estate funds.
6 The Bangari Zamindari High School, Chittoor district.	Zamindar of Bangaripalayam. The estate has not been taken over by the Government because of the order of stay issued by the High Court.
7 The Ramakrishna Mission High School.	Maintained from the income from Vembanur Mitt in Madurantakam taluk, Chingleput district and from Manali Lakshmanaswami Endowments.
8 The Ramakrishna Mission Vedapatsala, Kancheepuram.	Maintained from the income of Shrotriem Enadu in Kancheepuram taluk and managed by Koll Singanna Chetty Charities.
9 The Pennathur Subramania High School, Mylapore.	Maintained out of the income of Shrotriem Minju and Arivanvayal villages in Ponneri taluk of Chingleput district.
10 The National College, Tiruchirappalli.	Maintained out of the income from the inam village of Seegampatti in Kulittalai taluk, Tiruchirappalli district.
11 The Raja Doraisingam Memorial College, Sivaganga.	Raja of Sivaganga.
12 The K.V. Sala High School, Virudunagar.	Maintained out of the income of Muthuramapat village.
13 The St. Xavier's College, Palamcottah.	Maintained partly from the income of Tirumala naickenpudukudi mita in Senkarankoil taluk.
14 The Pachaiyappa's College, Madras.	Maintained partly from the income of the Shrotriem village of Chandrapadia in Atmakur taluk, Nellore district and partly from that of Kakkalur Zamin in Tiruvallur taluk, Chingleput district.



LIST OF AGENTS FOR THE MADRAS GOVERNMENT PUBLICATIONS.

IN CITY.

CITY BOOK COMPANY, Madras.
HIGGINBOTHAM'S, Madras.
P. VARADACHARI & Co., Madras.
THE SOUTH INDIA SAIVA SIDDHANTHA WORKS PUBLISHING SOCIETY, LIMITED, Madras.
VENKATARAMA & Co., Madras.
V. PERUMAL CHETTI AND SONS, Madras.
ACCOUNT TEST INSTITUTE, Kumbure, Madras.
V. RAMASAMY SASTHULU & SONS, Vavilla Press, Madras.

IN MUFASSAL.

THE EDUCATIONAL SUPPLIES COMPANY, R.S. Puram, Coimbatore district.
D. SREE KRISHNAKURTHY, Ongole, Guntur district.
K. P. AHMED KUNHI & BROS., Cannalore, Malabar district.
THE DECCAN PUBLISHING HOUSE, Kozhikode, Malabar district.
R. M. GOPALAKRISHNA KONE, Madurai, Madurai district.
A. VENKATASUBBAN, Vellore, North Arcot district.
K. BROJA RAO & Co., Mangalore, South Kanara district.
U. R. SRENOT & SONS, Mangalore, South Kanara district.
SRINIVAS & Co., Kumbakonam, Tanjore district.
S. KRISHNASWAMI & Co., Tiruchirappalli, Tiruchirappalli district.
P. N. SWAMINATHA SIVAN, Pudukkottai, Tiruchirappalli district.
V. S. VASAN & Co., Tirunelveli, Tirunelveli district.
M. SETHUPATHAN & Co., Masulipatnam, Krishna district.

IN OTHER STATES.

BANVARILAL JAIN, Agre.
BENARES BOOK CORPORATION, P.O. Lanka, Benares.
NEW BOOK COMPANY, Bombay.
D. B. TARAPORWALA SONS & Co., Bombay.
THACKER & Co., LTD., Bombay.
N. S. WAGLE, Changan, Bombay.
THE BOOK COMPANY, Calcutta.
LAW BOOK SOCIETY, Calcutta.
THACKER SPYER & Co., Calcutta.
R. CAMERON & Co., Calcutta.
HYDERABAD BOOK DEPOT, Hyderabad.
OMMATA UNIVERSITY STUDENTS' CO-OPERATIVE BOOK DEPOT, Lallaguda P.O. Hyderabad (Deccan).
BHAWNANI & SONS, New Delhi.
JAIN BOOK AGENCY, New Delhi.
INTERNATIONAL BOOK SERVICE, Poona.
INTERNATIONAL BOOK HOUSE, Trivandrum.