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C. B. (II) No. 81

LOK SABHA

THE INDIAN ELECTRICITY (AMENDMENT) BILL, 1958

(Report of the Joint Committee)

PRESENTED ON THE 9th FEBRUARY, 1959

सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI
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THE INDIAN ELECTRICITY (AMENDMENT) BILL, 1958

Composition of the Joint Committee

Lok Sabha

Sardar Hukam Singh—*Chairman*

MEMBERS

2. Shri Pendekanti Venkatasubbaiah
3. Shri Vinayak Rao K. Koratkar
4. Shri Maneklal Maganlal Gandhi
5. Shri Chandramani Lal Choudhry
6. Shri Shree Narayan Das
7. Shri Shivram Rango Rane
8. Shri Ramappa Balappa Bidari
9. Shri K. R. Sambandam
10. Shri M. Ayyakkannu
11. Shri N. K. Pangarkar
12. Sardar Amar Singh Saigal
13. Shri M. G. Uikey
14. Shri Abdul Latif
15. Shri Pulin Behari Banerji
16. Shri Bhagwan Din Misra
17. Shri Ram Shanker Lal
18. Shrimati Krishna Mehta
19. Shri S. Hansda
20. Shri Diwan Chand Sharma
21. Shri G. D. Somani
22. Shri K. T. K. Tangamani
23. Shri P. K. Vasudevan Nair
24. Shri Shraddhakar Supakar
25. Shri Ignace Beck
26. Shri Purushottamdas R. Patel
27. Shri Baishnab Charan Mullick
28. Shri Premji R. Assar
29. Shri Braj Raj Singh
30. Shri Jaisukhlal Lalshanker Hathi

Rajya Sabha

31. Shrimati Pushpalata Das
32. Captain Awadhesh Pratap Singh
33. Shri J. C. Chatterjee
34. Shri G. R. Kulkarni
35. Sardar Darshan Singh Pheruman
36. Shri Braj Bihari Sharma
37. Shri N. M. Lingam
38. Shri Bibudhendra Misra
39. Shri B. C. Nanjundaiya
40. Shri Rama Bahadur Sinha
41. Shri K. L. Narasimham
42. Shri Devendra Prasad Singh
43. Shri Jaswant Singh
44. Shri A. N. Khosla
45. Hafiz Mohammad Ibrahim.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

Report of the Joint Committee

I, the Chairman of the Joint Committee to which the *Bill further to amend the Indian Electricity Act, 1910 was referred, having been authorised to submit the report on their behalf, present this their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 27th September, 1958. The motion for reference of the Bill to a Joint Committee of the Houses (*vide* Appendix I) was moved by the Deputy Minister of Irrigation and Power, Shri Jaisukhlal Lalshanker Hathi, on the 19th November, 1958 and was discussed in the Lok Sabha on the 19th, 20th and 21st November, 1958 and was adopted on the 21st November, 1958.

3. The Rajya Sabha discussed the motion on the 2nd, 3rd and 4th December, 1958 and concurred in the said motion on the 4th December, 1958 (*vide* Appendix II).

4. The message from the Rajya Sabha was read out to the Lok Sabha on the 5th December, 1958.

5. The Committee held six sittings in all.

6. The first sitting of the Committee was held on the 15th December, 1958 to draw up a programme of work.

7. At the second sitting held on the 21st January, 1959, the Committee heard the evidence tendered by the Federation of Electricity Undertakings of India, Bombay.

The Committee have decided to lay the evidence tendered before them on the Table of the House *in extenso*.

8. The Committee considered the Bill clause by clause at their sittings held on the 22nd, 23rd and 24th January, 1959.

9. Three memoranda/representations on the Bill were received by the Committee from different associations/individuals as mentioned in Appendix III.

10. The Committee considered and adopted the Report on the 8th February, 1959.

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*Published in Part II, Section 2 of the Gazette of India Extraordinary, dated the 27th September, 1958.

11. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

12. *Clause* 3.—The amendments made in this clause seek to make certain drafting changes in the definition of "energy" in the principal Act.

13. *Clause* 4.—The changes made in this clause are of a drafting nature.

14. *Clause* 6.—The Committee feel that if a State Government desires to make any alteration or amendment in the terms and conditions of a license other than on an application of the licensee, the State Government should publish the proposed alteration or amendment in the prescribed manner and consider all objections received by it within a specified period, as is the procedure laid down in the case of alterations or amendments applied for by the licensee.

The clause has been amended accordingly.

15. *Clause* 7.—The Committee feel that where the State Government revokes a license under section 4(1) other than clause (c) thereof, of the principal Act, and the State Electricity Board or the local authority concerned is not willing to purchase the undertaking, it should not be obligatory upon the State Government to sell the undertaking to any other person willing to purchase it but the State Government should be free to decide whether to sell the undertaking to such person or not. The other amendments made in this clause are of a consequential or of formal nature.

The clause has been amended accordingly.

16. *Clause* 11.—The Committee feel that for the purposes of section 12 of the principal Act, occupier of a building or land should not include a person who is not in lawful occupation thereof. The clause has been amended accordingly.

17. *Clause* 12.—The amendments made in this clause are of a drafting nature.

18. *Clauses* 13 *and* 14.—The amendments made in these clauses are of a minor nature.

19. *Clause* 15.—The Committee feel that the State Government should not have any power to direct a licensee to supply energy, in preference to any other consumer, to any establishment merely on

the ground that it is a Government establishment. This power may be exercised only in relation to an establishment used or intended to be used for maintaining supplies and services essential to the community. The clause has been amended accordingly.

20. *Clause* 18.—The amendments made in this clause are of a consequential nature.

21. *Clause* 27.—The Committee feel that each State Electricity Board should nominate a member to the Central Electricity Board. The Committee have also increased the number to be nominated on the Board by the Central Government from four to five. The clause has been amended accordingly.

22. *Clause* 30 (*New clause*).—The Committee consider that all rules made under section 37 of the principal Act should be laid before both Houses of Parliament for a period not less than thirty days and shall be subject to such modifications as Parliament may make. The new clause makes the necessary provision.

23. *Clause* 40 (*Original clause* 39).—The Committee feel that it should be specifically provided in clause I of the Schedule to the Principal Act that where the works are not completed by the licensee within the stipulated period the State Government will have the option to forfeit any part or whole of the deposit money.

The Committee also feel that the minimum number of persons entitled to require the licensee to extend his mains to the locality where such persons reside, under clause VII of the Schedule to the principal Act should be reduced to one. The other amendments made in this clause are of a consequential nature. The clause has been amended accordingly.

24. *Clause* 41 (*New clause*).—This clause seeks to make certain consequential amendments in the Electricity (Supply) Act, 1948.

25. The Joint Committee recommend that the Bill as amended be passed.

HUKAM SINGH,
Chairman,
Joint Committee

NEW DELHI;
The 9th February, 1959.

Minutes of Dissent

I

The Indian Electricity (Amendment) Bill as it now has emerged from the Joint Committee has made certain amendments to the Bill. We are constrained to observe that the amendments accepted do not conform to the statement of objects and reasons for introducing the Bill. The main objects of the Bill are (a) to enlarge the scope and facilities available to consumers of electricity, (b) to extend the same facilities to consumers served by Government Electricity Department or enjoyed by the consumers of private licencees and State Electricity Board, (c) to exercise strict control over the licencees, (d) to take powers to regulate the distribution, supply, the consumption and use of energy in certain circumstances and (e) to provide for the inspection of electrical works and installations of the Central Government.

We shall briefly examine how far these objects have been served by the Bill after consideration by the Joint Committee. We have to state that we were not able to carry the majority of members of the Committee in pressing forward our amendments or rejecting the amendments moved by the Government.

The only salutary amendment which has been accepted by the Committee is the forfeiture clause in the licence when the licencee fails to carry out the terms of his agreement.

Regarding the consumers we wanted the specific provision in the licence fixing the price rates. That was not accepted. In addition to this in the Central Electricity Board there is no representation to the consumers' interest.

We do not see how the control over the licencee is made more stringent by the amending Bill. In cases where the distributing mains had to be laid at the instance of some requisitionists and in case where the supply of energy is to be made to occupiers in the vicinity and also in case of supply of energy to the consumers it is now provided in the Act that the licencee will be assured at the current rates charged by him an annual revenue not exceeding 15 percentum of the cost of services for a period of two years. This we consider as a special favour conferred upon the licencee.

The objects provide for powers to regulate the distribution and supply in certain circumstances. Section 22(A) of the Act provided that the State Government may if in its opinion it is necessary

in the public interest so to do, direct any licencee to supply in preference to any other consumer energy required by any establishment belonging to or under the control of the Central Government or the State Government. The Joint Committee has deleted this provision, thereby taking away the priority which was originally conferred upon the public sector.

Although in both the Houses the Members advocated gradual nationalisation of Electricity Supply specific provision authorising the State Governments to acquire the electricity undertaking as it was done in the case of Madras State has not been provided for in the Bill as amended.

The purchase price which is offered under Section 7(A) of the Act is exorbitant. The price includes market value of the undertaking subject to reference to arbitration in case of dispute. It would have been better if the compensation amount was fixed at either the market value or the depreciated book value whichever is less. In addition to the market value the Act gives a solatium not exceeding twenty percentum of the market value. This, we consider as throwing away the public money to the owner of an undertaking who has already made enormous profits.

The interest of the employees other than managerial staff has also not been protected in case of transfer. It would have been better if the length of services of the employees were reckoned if the undertaking were taken over by the State Government. Besides, there is no representation to the labour on the Electricity Board.

There are only a few minor points to which we will make a reference before concluding. The present Electricity Board has practically no powers and it is not comparable to the State Electricity Board. This Board has got only rule making powers. We hope that the powers of this board will be enlarged. At present as amended on a requisition signed by two or more owners or occupiers of the premises in the area of the supply after expiration of two-and-a-half years from the commencement of the licence the licencee will lay down further distributing mains. This is provided in Clause (5) to the schedule of the original Act, *i.e.* Clause 39 of the amending Bill. We suggest that the same result should follow on requisition by one person. The proviso to Sec. 4A (1) should go as it gives veto power to licencee while making alterations in license.

*P. K. VASUDEVAN NAIR
*K. L. NARASIMHAM
K. T. K. TANGAMANI

NEW DELHI;
The 8th February, 1959.

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*Certificate required under Direction 87 of the 'Directions by the Speaker under the Rules of Procedure of Lok Sabha' has not been furnished.

I regret my inability in concurring with the report of the Select Committee on the Indian Electricity (Amendment) Bill, 1958 and hence I add a minute of dissent.

For a rapid development of the country, it is essential to stimulate a hunger for power among the masses and legislation by the Centre and the States can do much in stimulating this hunger. Where the masses (the consumers, actual and potential) are not sufficiently conscious of the manifold benefits of electricity, the Government should help them in every possible way to get this consciousness. The giant industries and the big cities have their own demands of more and more electricity. But the needs of the cottage industries, the small towns and villages, and the agriculturists have to be met and more needs for them created. Our Second Five Year Plan pleading for the rural consumers says—

> "There is justification for adjusting tariffs for urban and industrial consumers with a view to carrying out this policy. For rural electrification schemes it may not always be possible to apply the usual yardstick for financial return. In special cases, where electricity would provide large benefits to the community the State Governments, subject to their finances permitting may even sponsor schemes which are not expected to be self-supporting within the usual period of 10 years." (Second Five Year Plan Page 340).

A study of the Electricity Acts of 1910 and of 1948 and the present bill has convinced me that in the matter of development of electricity there is little to enthuse the consumers, actual and potential, little to enthuse the agriculturists, the small men in the villages, in the suburbs of small towns and men interested in the cottage industry. The State Government through the electricity board, consisting mostly of technical persons provide adequate protection to the interest of the licensees but are not half as solicitous of the interest of the consumers. Their interests are ignored.

I am not surprised therefore that some states have not yet set up their electricity boards even eleven years after the passing of the Electricity Supply Act. I was not surprised when the amendments tabled by some members to extend some concession to agriculturists and small industries regarding rates and facilities for electric connections were not accepted by the Committee. Living under the shade of the gorgeously illuminated Hirakud Dam, I

know how the Municipal Authorities and the citizens of Sambalpur town had to go on "light off" strike, in spite of the 1948 Act, because the State Government either would not listen to their legitimate grievances against the licensee or could not help the public. The Secretary of the Federation of Electricity Undertakings, who appeared as a witness before us referred to the case of a desparate municipality which stopped taking electricity and restored kerosene lighting, though the Secretary put the blame on the municipality. Proper legislative amendment may solve many such pathological problems, if the Government give due importance to the needs of the Common man.

I am not oblivious of the provision regarding the State Electricity Councils and the Local Advisory Committees, but I doubt their adequacy or effectiveness in the set up of the 1948 Act. After the passing of the Electricity (Supply) Act in 1948, draft rules were framed by the Central Government in 1954, apparently for adoption by the State Governments, whose responsibility it was to prescribe rules for the conduct and composition of the Electricity Council. But even these draft rules do not prescribe any rule under section 16 or section 78 of the Electricity (Supply) Act, 1948. Therefore I wonder in how many States these councils have been functioning with adequate rules and regulations, and I doubt if the Union Territories have their Electricity Councils and Local Advisory Committees.

This point needs emphasis not only for the reason that the State Electricity Council is the only body where the common man has some chance of having his say but also on account of the fact that certain amendments proposed by the Government in the Bill, appeared to me to be retrograde and I tried unsuccessfully to oppose the same. The amendments relate to deleting the clauses about maximum unit rate of electricity to be charged by the licensee to the consumer.

Section 3 of the Indian Electricity Act, 1910 provided in clause (d) that—

a licence under this Part

(1) *may* prescribe such terms.....

as to the limits of price to be charged in respect of the supply of energy.....

And clause XI of the Schedule to that Act provided among other things that—

"the prices charged by the licensee for energy supplied by him shall not exceed the maxima fixed by his licence....etc.

Then came the 1948 Electricity (Supply) Act, which in Section 57(i) read with the Sixth Schedule and the table appended to the Seventh Schedule provided for a complicated formula for fixing the rate to be charged to the consumer. It is difficult for the lay man, who has not studied higher mathematics (pure and applied) and who has no access to the licensee's accounts to judge what should be the reasonable rate. The State Government may be indifferent or may not have the time to look meticulously to the returns to see whether the rates are just. No doubt, Section 57 provides for the setting up of rating committee. But here again whereas the licensee has the right to request the State Government to set up a rating committee to determine fair charge, the consumer has no similar right. Even in the rating committee a licensee's association may be represented, but not a Consumer's representative apparently because the interest of the consumer is best represented by the State Electricity Board.

The law of ascertaining the correct rate per unit with the help of the formulae enunciated in the Sixth and Seventh schedules of 1948 Act is not necessarily inconsistent with the law fixing a maximum and minimum charge, as provided in the 1910 Electricity Act. The two Acts have existed side by side without any objection of repugnancy of the one provision to the other. Section 57 of the 1948 Act provides an additional safeguard by saying that the formulae of the Sixth and Seventh schedules of that Act will prevail over any provision in the earlier act to the contrary. Whereas the 1948 Act formulae are complicated, the ceiling of rate provided in 1910 Act provides a ready reference to the average consumer about the rate and prevent chances of undue profiteering inasmuch as a copy of the licence is readily available to the consumer.

But there is more a fundamental reason why a ceiling to the rate of electricity should be provided in the license notwithstanding the formulae in Schedules 6th and 7th of the 1948 Electricity Act. If we want to develop electricity, we cannot ensure reasonable profit from the very beginning. Tea and Coffee were distributed free in the beginning to make people addicted to them. We do not want people, the village industry man, the agriculturists to be addicted to electricity. Can we make even a beginning in the development of electricity if we say that a distributing licensee, who gets electricity from our big hydro-electric project at a nominal bulk rate can not supply electricity to the community pumping set or the small-scale industry below say Rs. 2/- per unit according to the calculation suggested by schedules 6th and 7th of the 1948 Act?

Not only may the licensee be given a reasonable return (from the immediate investment) but also the consumer must be ensured that electricity is not a luxury only for the white-collared man or the industrialists but is also available to him at a reasonable rate not beyond his means. In proposing to delete the clauses on ceiling, the Government completely lost sight of this aspect of legislation.

For the above reason I propose the deletion of clause 4(ii) (b) (i) in page 3 lines 15 to 18 and the deletion of sub-clause (j) of clause 39.

So far as development of electricity and expansion of service is concerned, must we ensure the licensee reasonable profit for each line of extension small or big or should it be sufficient, if we ensure the licensee an overall reasonable return? If we insist on the first alternative, it may hamper development. Those members of the Select Committee who prefer the second alternative, to my mind, tabled amendment to sub-clause (d) of clause 39 of the Bill. Schedule V of the original Act provided that if six or more persons in a locality apply for distributing mains under certain conditions, the licensee shall provide distributing mains, within the area of supply. The present bill sought to change the words "six or more" to "two or more". The question was; since a certain guarantee of supply and use was needed from the applicants, whether the phrase "two or more" could not be amended to "one or more". As against this, it was argued that for one consumer a service line was enough and no distributing main was needed, and that to insist on a distributing main for one man may result in loss to the licensee. It is difficult to see the logic of difference between "two or more" and "one or more" in this context. If a distributing main is laid even at the request of one man it is sure to serve as a nucleus for further expansion since it is within the area of supply and though it may not yield immediate profit, it is a nucleus for development and is sure to earn more business and profit to the licensee in the long run.

Whatever shape this Bill may take in Parliament, it is time that the Government and the licensees have a change in their outlook in order to be a little more accommodating to the needs of the ordinary consumer.

SHRADDHAKAR SUPAKAR.

NEW DELHI;

The 8th February, 1959.

The Indian Electricity (Amendment) Bill as it now has now emerged from the Joint Committee has made certain amendments to the Bill. I am constrained to observe that the amendments accepted do not conform to the statement of objects and reasons for introducing the Bill. The main objects of the Bill are (a) to enlarge the scope and facilities available to consumers of electricity, (b) to extend the same facilities to consumers served by Government Electricity Department or enjoyed by the consumers of private licensees and State Electricity Boards, (c) to exercise strict control over the licensees, (d) to take powers to regulate the distribution, supply, the consumption and use of energy in certain circumstances and (e) to provide for the inspection of electrical works and installations of the Central Government.

I shall briefly examine how far these objects have been served by the Bill after consideration by the Joint Committee. I am sorry to point out that I was not able to carry the majority of members of the Committee in pressing forward certain amendments or rejecting the amendments moved by the Government.

The only salutary amendment which has been accepted by the Committee is the forfeiture clause in the licence when the licensee fails to carry out the terms of his agreement.

Regarding the consumers I wanted the specific provision in the licence fixing the price rates. That was not accepted. In addition to this in the Central Electricity Board there is no representation of the consumers' interest. Their interests are left to be watched and determined by the suppliers.

I do not see how the control over the licensee is made more stringent by the amending Bill. In cases where the distributing mains had to be laid at the instance of some requisitionists and in case where the supply of energy is to be made to occupiers in the vicinity and also in case of supply of energy to the consumers it is now provided in the Act that the licensee will be assured at the current rates charged by him an annual revenue not exceeding 15 percentum of the cost of services for a period of two years. This is a special favour conferred upon the licensee.

The objects provide for powers to regulate the distribution and supply in certain circumstances. Section 22(A) of the Act provided that the State Government may if in its opinion it is necessary in the public interest so to do, direct any licensee to supply in preference to any other consumer energy required by any establishment

belonging to or under the control of the Central Government or the State Government. The Joint Committee has deleted this provision, thereby taking away the priority which was originally conferred upon the public sector. This is another significant victory for the licensee.

Although in both the Houses the Members advocated gradual nationalisation of Electricity Supply specific provision authorising the State Governments to acquire the electricity undertaking as it was done in the case of Madras State has not been provided for in the Bill as amended.

The purchase price which is offered under Section 7(A) of the Act is exhorbitant. The price includes market value of the undertaking subject to reference to arbitration in case of dispute. It would have been better if the compensation amount was fixed at either the market value or the depreciated book value whichever is less. In addition to the market value the Act gives a solatium not exceeding twenty percentum of the market value. This, in my opinion is throwing away the public money to the owner of an undertaking who has already made enormous profits.

The interest of the employees other than managerial staff has also not been protected in case of transfer. It would have been better if the length of services of the employees were reckoned if the undertaking were taken over by the State Government. Besides, there is no representation to the labour on the Electricity Board.

There are only a few minor points to which I will make a reference before concluding. The present Electricity Board has practically no powers and it is not comparable to the State Electricity Board. This Board has got only rule making powers. We hope that the powers of this board will be enlarged or in the absence of enlargement of powers, the Board shall be allowed to die its own death. At present as amended on a requisition signed by two or more owners or occupiers of the premises in the area of the supply after expiration of two-and-a-half years from the commencement of the licence the licensee will lay down further distributing mains. This is provided in Clause (5) to the schedule of the original Act, *i.e.*, Clause 39 of the amending Bill. In my opinion the same result should follow on requisition by one person. The proviso to Section 4A(1) should go as it gives veto power to licensee while making alteration in licence.

In the present context of the situation in the country it is essential that provisions are made by which agriculture and small-scale,

cottage and village industries are supplied energy at cheaper and concessional rates. I only hope that the Bill will be amended accordingly to insert such a provision.

NEW DELHI;
The 8th February, 1959. BRAJ RAJ SINGH.

IV

I regret that I cannot fully agree with the majority view.

We want increase of food production and other agricultural produces. We have to import foodgrains costing us yearly more than about Rs. 100 crores. We export ground-nuts, tobacco, raw cotton, oil and oil seeds etc. and thereby we earn foreign exchange and also export duties to our revenue. It is an admitted fact that agriculture is the very basis of our plans, prosperity and future progress. It is also desired that our agricultural production should be doubled. If we do not double our agricultural production within five years, we shall have to face a serious break-down of our national economy. Financing our plans by borrowing or over-borrowing may some day affect our national honour and integrity. It must be the concern of one and all to find ways and means to double our agricultural produce as would not only make our country self-sufficient in foodgrains but we may be able also to export agricultural produce, to earn foreign exchange as would balance our foreign imports.

It is with this view that I am obliged to write this minute of dissent.

Can we not successfully harness electric energy to increase our agricultural production? When we amend the Indian Electricity Act, should we not so amend it as to induce the agriculturists to make maximum use of electric energy for irrigation resulting in more production?

Under Section 3(d) of the Indian Electricity Act, 1910, the Government is authorised to prescribe price-limits; however by the amending Bill, it is proposed to omit that part from this section which empowers the Government to prescribe price-limit. I am of opinion that the present Sec. 3(d) empowering the Government to prescribe price-limit be not disturbed but the following be added—

> 'which in case of supply of energy for agriculture and its allied work and also for small scale industry shall not exceed 10 nP. per unit.'

I desire that the Government should have authority to prescribe price-limit of energy used in agriculture and small industry and

the Government should use this authority by prescribing such price-limit for energy as would give impetus to agricultural production and to small industries.

Through private and public sectors, we are extending electric energy to rural areas. There are wells and flowing rivers and tanks. This water may be pumped to irrigate agriculture to increase production. Agriculturists do not utilise this, because of high rates of energy. If price-limit of energy used in agriculture is prescribed, and if that price-limit is appreciably low, agriculturists will be tempted to make maximum use of energy resulting in the increase of production. I propose that the price-limit for these purposes should not exceed 10 naye paise per unit.

For these reasons I propose that Sec. 3(d) of the Indian Electricity Act, 1910 be retained and also that clause 4b(1) of the amending Bill be omitted and the following words after 'the supply of energy' in Sec. 3(d) be added—

> "which in case of supply of energy for agriculture and its allied works and also for small scale industries shall not exceed ten naye paise per unit".

Agriculture is very often not a paying proposition. Per capita income of one in agriculture is much less than anybody in the country. I think the per capita *gross* income of one in agriculture is about Rs. 150/- only per year. So by giving energy at a cheap rate to agriculture, we help the poorest and the most needy section of our population and also thereby help ourselves, if agriculture production is increased.

A question may be asked 'why discriminatory favourable treatment to agriculture?' The answer is that we want to double our agricultural production to save our country from being economically ruined. We want to be self-sufficient in food and we want more cash crops to earn foreign exchange. Do we not give concessions to textile and other industries? So if some concession is given to agriculture, why should it be questioned? The ruling political party—Congress—is determined to put ceiling on lands and thereby on agricultural income without thinking of putting ceilings on other property holdings and incomes. Is it not discriminatory treatment to agriculturists? I am putting this in reply to those who are opposed to price-limit of rates of energy used for agriculture irrigation.

I also propose that the price-limit not exceeding 10 nP. per unit be prescribed, of energy used in small-scale industries. For the purpose of this Act, small-scale industry requires to be defined, so

that only genuine small industry may get the benefit of the concession rate. So I propose that the following sub-clause be added to section 2 of the Indian Electricity Act, 1910—

> "For the purpose of this Act, small-scale industry means an industry worked by electrical energy on a motor of not more than 10 H.P."

We are aware that the economic condition of a middle-class family these days is miserable. In a middle-class family, one earning member has to support the whole family. Ladies do not contribute to the earnings but only do the house-work. If small industries are introduced, not only they will increase our national wealth, but they will help the deficit budget of the middle-class family in a number of ways.

Small industries have to face organised big industries. A big industry by using more energy gets a bigger advantage. How a small industry will withstand the competition of a big industry if no ceiling is prescribed on the price rate of energy used in small industry?

It is proposed to introduce power-looms to replace hand-looms. Unless power-looms are introduced our home-weaving industry will not survive in the face of acute competition of the Textile Industry. It is absolutely necessary to supply energy to power-looms and small industries at a cheaper rate.

Argument may be put up against my proposal that if the price limit is less than the cost price of energy, who is to bear the loss? My submission is that the balance-sheets of electricity concerns should not be taken at their face value. To earn 2% over the bank interest rate, so many unnecessary expenses are generally shown in their accounts.

However, if any loss occurs by giving energy at cheap rates for agriculture and small industries, the Government may be pleased to subsidise the loss. My opinion is that there will be no loss to be subsidised by the Government.

If the Government is not prepared to subsidise loss, there is another way.

The electrical concerns are guaranteed net profit of 2% over the current bank rate of interest. Whatever be the loss in giving energy to agriculture and small industries may be distributed to other consumers. They are to be benefited by more agricultural production as well as by small industries which they may also introduce

in their houses and add something to their budget. My opinion is that the addition thereby to price of energy used by others may not be more than a fraction of one naya paisa per unit.

Have we not taxed mill textile users to encourage Khadi? We have laid a special tax on mill textiles and the amount derived thereby we use in subsidising Khadi; so the users of mill textile bear the burden of subsidies to Khadi. Hence my proposal to distribute the loss, if any, due to the supply of energy at concession rate for agriculture and small industries to other consumers of energy is not a new one.

I earnestly hope that the hon. House will give their sympathetic consideration to the points I have raised.

PURUSHOTTAMDAS R. PATEL

The 8th February, 1959.

V

I regret I cannot agree with the majority opinion in the Select Committee. No doubt the Committee has made some welcome changes in the Bill as introduced in Parliament and has tried to move a wee-bit further towards removal of the very many difficulties a consumer, or prospective consumer, is confronted with today, but I feel that the occasion should have been availed of to evolve a more comprehensive, codified and compact piece of legislation covering all the aspects of power distribution and supply and enlarging in substantial measure "the scope of facilities available to consumers of electricity".

The Government have agreed to alter the provision in the original draft requiring that to make a requisition for a new connection in a particular locality, there must be at least two signatories, and has acceded to the proposal that a single consumer may make such a requisition. That is good so far as it goes. But the requirement that this initial consumer or consumers will have to assure to the licensee an annual revenue of 15 per cent of the cost of the service line cannot but act as a serious deterrent on the spread of electric power as envisaged. This provision needs to be altered.

The Committee has certainly done well in suggesting that the power of the State Government to give direction in respect of the supply of energy to consumers be restricted only to such establishments which are being used or intended to be used for maintaining

supplies and services essential to the community. This inhibits the arbitrariness that can emerge from this provision as originally contemplated.

There has been a good deal of discussion in regard to the purchasing price that ought to be paid to a licensee when an undertaking belonging to him is sold under sub-section (2) of section 5, and the Committee has opined that this price "shall be the market value of the undertaking at the time of purchase". Much has been tried to be made out of the Minister's observation that this market value formula can cut both ways. But as a matter of fact having regard to the climate for the expansion of electricity if this formula is accepted the amount which licensees would get as compensation would almost invariably be many more times the investment they can have put into the establishment, and so ultimately would cut only one way—in favour of the licensee and against the consumer. It is desirable that the purchasing price be calculated at the depreciated book cost of the establishment.

It is surprising that the Committee did not agree to the suggestion that the Central Electricity Board should include nominees of Parliament as well who ought to act on the Board as representatives of consumers. I wish it had.

NEW DELHI;
The 9th February, 1959.

PREMJI R. ASSAR

Bill No. 108 B of 1958.

THE INDIAN ELECTRICITY (AMENDMENT) BILL, 1958

(AS AMENDED BY THE JOINT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions)

A

BILL

further to amend the Indian Electricity Act, 1910.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. This Act may be called the Indian Electricity (Amendment) Act, 1959. Short title.

9 of 1910.

2. Throughout the Indian Electricity Act, 1910 (hereinafter referred to as the principal Act), unless otherwise expressly provided,— Substitution of expressions "aerial line" and "Electric Inspector" by certain other expressions.

(*i*) for the words "aerial line" wherever they occur, the words "overhead line" shall be substituted; and

(*ii*) for the words "Electric Inspector" wherever they occur, the words "Electrical Inspector" shall be substituted.

3. In section 2 of the principal Act,— Amendment of section 2.

(*i*) for the words "have the meanings assigned to them in that Act", the words, brackets and figures "or in the Electricity (Supply) Act, 1948, have the meanings assigned to them in either of those Acts" shall be substituted;

54 of 1948.

(*ii*) for clause (*a*), the following clause shall be substituted, namely:—

'(*a*) "appropriate Government" means in relation to any works or electric installations belonging to, or under

the control of, the Central Government or in relation to any mines, oil-fields, railways, aerodromes, telegraphs, broadcasting stations and any works of defence, the Central Government, and in any other case, the State Government;';

(*iii*) for clause (*c*), the following clause shall be substituted, namely:—

'(*c*) "consumer" means any person who is supplied with energy by a licensee or the Government or by any other person engaged in the business of supplying energy to the public under this Act or any other law for the time being in force, and includes any person whose premises are for the time being connected for the purpose of receiving energy with the works of a licensee, the Government or such other person, as the case may be;';

(*iv*) for clause (*f*), the following clause shall be substituted, namely:—

'(*f*) "electric supply-line" means a wire, conductor or other means used for conveying, transmitting or distributing energy (whether by overhead line or underground cable), together with any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same or any part thereof, or any apparatus connected therewith for the purpose of so conveying, transmitting or distributing such energy and includes any support, cross-arm, stay, strut or safety device erected or set up for that purpose;';

(*v*) for clause (*g*), the following clause shall be substituted, namely:—

'(*g*) "energy" means electrical energy—

(*i*) generated, transmitted or supplied for any purpose, or

(*ii*) used for any purpose except the transmission of a message;';

(*vi*) in clause (*i*), the words "by a licensee" shall be omitted;

(*vii*) after clause (*i*), the following clause shall be inserted, namely:—

'(*ii*) "overhead line" means an electric supply-line which is placed above ground and in the open air but does not include live rails of a traction system;';

(*viii*) in clause (*l*), the words "by a licensee" shall be omitted and in sub-clause (*i*), for the words "licensee's premises", the words "supplier's premises" shall be substituted;

(*ix*) after clause (*l*), the following clause shall be inserted, namely:—

'(*ll*) "State Electricity Board" in relation to any State means the State Electricity Board, if any, constituted for that State under section 5 of the Electricity (Supply) Act, 1948;';

54 of 1948.

(*x*) for clause (*n*), the following clause shall be substituted, namely:—

'(*n*) "works" includes electric supply-line and any building, plant, machinery, apparatus and any other thing of whatever description required to supply energy to the public and to carry into effect the objects of a license or sanction granted under this Act or any other law for the time being in force.'.

Amendment of section 3.

4. In section 3 of the principal Act,—

(*i*) in sub-section (*1*), for the words "grant to any person a license", the words "grant after consulting the State Electricity Board, a license to any person" shall be substituted;

(*ii*) in sub-section (*2*),—

(*a*) in clause (*a*), in item (*ii*),—

(*i*) after the word "cantonment,", the word "aerodrome," shall be inserted;

(*ii*) for the words "naval or military purposes", the words "defence purposes" and for the words "Engineer-in-Chief, Army Headquarters, India", the words "Central Government" shall respectively be substituted;

(*b*) in clause (*d*),—

(*i*) in item (*i*), the words "and as to the limits of price to be charged in respect of the supply of energy," shall be omitted;

(*ii*) in item (*ii*), for the words and figures "sections 5 and 7", the words and figures "sections 5 and 6" and for the words and figures "section 5 or section 7", the words and figures "section 5 or section 6" shall be substituted.

Amendment of section 4.

5. In section 4 of the principal Act,—

(*i*) in sub-section (*1*),—

(*a*) after the words "so requires", the words "and after consulting the State Electricity Board" shall be inserted;

(*b*) in clause (*c*), for the words, brackets, figure and letter "sub-section (*3*), clause (*b*)", the words, figures, letter and brackets "section 4A, sub-section (*1*)" shall be substituted;

(*c*) in clause (*d*), for the words "where the licensee is, in the opinion of the State Government, unable, by reason of his insolvency", the words "where in the opinion of the State Government the financial position of the licensee is such that he is unable" shall be substituted;

(*d*) after clause (*d*), the following clause shall be inserted, namely:—

"(*e*) where a licensee, in the opinion of the State Government, has made default in complying with any direction issued under section 22A.";

(*ii*) for sub-sections (*2*) and (*3*), the following sub-sections shall be substituted, namely:—

"(*2*) Where in its opinion the public interest so permits, the State Government may, on the application or with the consent of the licensee, and after consulting the State Electricity Board, and the Central Government where that Government is interested, and if the licensee is not a local authority, after consulting also the local authority, if any, concerned, revoke a license as to the whole or any part of the area of supply upon such terms and conditions as it thinks fit.

(*3*) No license shall be revoked under sub-section (*1*) unless the State Government has given to the licensee not less than three months' notice, in writing, stating the grounds on which it is proposed to revoke the license and has considered any cause shown by the licensee within the period of that notice, against the proposed revocation.

(*4*) Where the State Government might under sub-section (*1*) revoke a license it may instead of revoking the license permit it to remain in force subject to such further terms and conditions as it thinks fit to impose and any further terms or conditions so imposed shall be binding upon, and be observed by, the licensee, and shall be of like force and effect as if they were contained in the license.".

Insertion of new section 4A.

6. After section 4 of the principal Act, the following section shall be inserted, namely:—

Amendment of licenses.

"4A. (*1*) Where in its opinion the public interest so permits, the State Government, on the application of the licensee or otherwise and, after consulting the State Electricity Board, and

if the licensee is not a local authority, also the local authority, if any, concerned, may make such alterations and amendments in the terms and conditions of a license, including the provisions specified in section 3, sub-section (2), clause (*f*), as it thinks fit:

Provided that no such alterations or amendments shall be made except with the consent of the licensee unless such consent has, in the opinion of the State Government, been unreasonably withheld.

(2) Where the licensee has made an application under sub-section (*1*) proposing any alterations or amendments in his license, the following provisions shall have effect, namely:—

(*a*) the licensee shall publish a notice of the application in the prescribed manner and with the prescribed particulars;

(*b*) the State Government shall not make any alterations or amendments until all objections received by it with reference to the application within three months from the date of the first publication of the notice have been considered;

(*c*) in the case of an application proposing alterations or amendments in the area of supply comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the State Government shall not make any alterations or amendments except with the consent of the Central Government."

(*3*) Before making any alterations or amendments in a license otherwise than on the application of the licensee, the State Government shall publish the proposed alterations or amendments in the prescribed manner and with the prescribed particulars and consider all objections received by it with reference to the proposed alterations or amendments within three months from the date of the first publication of the notice; and where alterations or amendments have been proposed in an area of supply such as is referred to in clause (*c*) of sub-section (*2*), the State Government shall not make any alterations or amendments except with the consent of the Central Government.".

Substitution of new sections for sections 5, 6 and 7.

7. For sections 5, 6 and 7 of the principal Act, the following sections shall be substituted, namely:—

Provisions where license of a licensee is revoked.

"5. (*1*) Where the State Government revokes, under section 4, sub-section (*1*), clause (*c*), the license of a licensee, the State Government shall serve a notice of revocation upon the licensee and on and with effect from the date on which such notice is served, all the powers and liabilities of the licensee under this Act shall absolutely cease and determine.

(*2*) Where the State Government revokes, under any other provision of section 4, sub-section (*1*), the license of a licensee, the following provisions shall have effect, namely:—

(*a*) the State Government shall serve a notice of revocation upon the licensee and shall fix a date on which the revocation shall take effect; and on and with effect from that date, or on and with effect from the date, if earlier, on which the undertaking of the licensee is sold to a purchaser in pursuance of any of the succeeding clauses or is delivered to a designated purchaser in pursuance of sub-section (*4*), all the powers and liabilities of the licensee under this Act shall absolutely cease and determine;

(*b*) the State Government shall enquire from the State Electricity Board, and where the licensee is not a local authority, also from any local authority constituted for the area within which the whole of the area of supply is included, whether it is willing to purchase the undertaking;

(*c*) if the State Electricity Board is willing to purchase the undertaking, the State Government shall, by notice in writing require the licensee to sell, and thereupon, the licensee shall sell the undertaking to the State Electricity Board;

(*d*) if the State Electricity Board is not willing to purchase the undertaking, the State Government shall have the option of purchasing the undertaking and if it elects to purchase, it shall by notice in writing require the licensee to sell, and thereupon the licensee shall sell the undertaking to it;

(*e*) if the State Electricity Board is not willing to purchase the undertaking and the State Government does not itself elect to purchase it, the State Government in any case where the local authority referred to in clause (*b*) is willing to purchase the undertaking shall by notice in writing require the licensee to sell and thereupon the licensee shall sell the undertaking to that local authority;

(*f*) if no sale of the undertaking is effected under any of the foregoing clauses and if any other person is willing to

purchase the undertaking, the State Government may by notice in writing require the licensee to sell, and thereupon the licensee shall sell the undertaking to such other person.

(3) Where an undertaking is sold under sub-section (2), the purchaser shall pay to the licensee the purchase price of the undertaking determined in accordance with the provisions of sub-sections (1) and (2) of section 7A, or as the case may be, sub-section (3) of that section.

(4) Where the State Government issues any notice under sub-section (2) requiring the licensee to sell the undertaking, it may by such notice require the licensee to deliver, and thereupon the licensee shall deliver on a date specified in the notice the undertaking to the designated purchaser pending the determination and payment of the purchase price of the undertaking.

(5) Where before the date fixed in the notice issued under clause (a) of sub-section (2) as the date on which the revocation of the license shall take effect, no notice has been issued to the licensee requiring him to sell the undertaking or where for any reason no sale of the undertaking has been effected under that sub-section, the licensee shall have the option of disposing of all lands, buildings, works, materials and plant belonging to the undertaking in such manner as he may think fit:

Provided that if the licensee does not exercise such option within a period of six months from the aforesaid date, the State Government may forthwith cause the works of the licensee in, under, over, along, or across any street to be removed and every such street to be reinstated, and recover the cost of such removal and reinstatement from the licensee.

Purchase of undertakings.

6. (1) Where a license has been granted to any person, not being a local authority, the State Electricity Board shall,—

(a) in the case of a license granted before the commencement of the Indian Electricity (Amendment) Act, 1959, on the expiration of each such period as is specified in the license; and

(b) in the case of a license granted on or after the commencement of the said Act, on the expiration of such period not exceeding twenty years and of every such subsequent period, not exceeding ten years, as shall be specified in this behalf in the license;

have the option of purchasing the undertaking and such option shall be exercised by the State Electricity Board serving upon the licensee a notice in writing of not less than one year requiring the licensee to sell the undertaking to it at the expiry of the relevant period referred to in this sub-section.

(2) Where a State Electricity Board has not been constituted, or if constituted, does not elect to purchase the undertaking, the State Government shall have the like option to be exercised in the like manner of purchasing the undertaking.

(3) Where neither the State Electricity Board nor the State Government elects to purchase the undertaking, any local authority constituted for an area within which the whole of the area of supply is included shall have the like option to be exercised in the like manner of purchasing the undertaking.

(4) If the State Electricity Board intends to exercise the option of purchasing the undertaking under this section, it shall send an intimation in writing of such intention to the State Government at least eighteen months before the expiry of the relevant period referred to in sub-section (1) and if no such intimation as aforesaid is received by the State Government the State Electricity Board shall be deemed to have elected not to purchase the undertaking.

(5) If the State Government intends to exercise the option of purchasing the undertaking under this section, it shall send an intimation in writing of such intention to the local authority, if any, referred to in sub-section (3) at least fifteen months before the expiry of the relevant period referred to in sub-section (1) and if no such intimation as aforesaid is received by the local authority, the State Government shall be deemed to have elected not to purchase the undertaking.

(6) Where a notice exercising the option of purchasing the undertaking has been served upon the licensee under this section, the licensee shall deliver the undertaking to the State Electricity Board, the State Government or the local authority, as the case may be, on the expiration of the relevant period referred to in sub-section (1) pending the determination and payment of the purchase price.

(7) Where an undertaking is purchased under this section, the purchaser shall pay to the licensee the purchase price determined in accordance with the provisions of sub-section (4) of section 7A.

Vesting of the undertaking in the purchaser.

7. Where an undertaking is sold under section 5 or section 6, then upon the completion of the sale or on the date on which the undertaking is delivered to the intending purchaser under sub-section (4) of section 5 or under sub-section (6) of section 6, as the case may be, whichever is earlier—

(i) the undertaking shall vest in the purchaser or the intending purchaser, as the case may be, free from any debt,

mortgage or similar obligation of the licensee or attaching to the undertaking:

Provided that any such debt, mortgage or similar obligation shall attach to the purchase money in substitution for the undertaking;

(*ii*) the rights, powers, authorities, duties and obligations of the licensee under his license shall stand transferred to the purchaser or intending purchaser and such purchaser or intending purchaser shall be deemed to be the licensee:

Provided that where the undertaking is sold or delivered to a State Electricity Board or the State Government, the license shall cease to have further operation.

Determination of purchase price.

7A. (*1*) Where an undertaking of a licensee, not being a local authority, is sold under sub-section (2) of section 5, the purchase price of the undertaking shall be the * market value of the undertaking at the time of purchase or where the undertaking has been delivered before the purchase under sub-section (*4*) of that section, at the time of the delivery of the undertaking, reduced in either case by the value of contributions made by consumers towards the cost of construction of service lines or other capital works; and if there is any difference or dispute regarding such purchase price, the same shall be determined by arbitration.

(2) The * market value of an undertaking for the purpose of sub-section (*1*) shall be deemed to be the value of all lands, buildings, works, materials and plant of the licensee suitable to, and used by him, for the purpose of the undertaking, other than a generating station declared by the license not to form part of the undertaking for the purpose of purchase, due regard being had to the nature and condition for the time being of such lands, buildings, works, materials and plant and the state of repair thereof and to the circumstance that they are in such position as to be ready for immediate working and to the suitability of the same for the purpose of the undertaking, but without any addition in respect of compulsory purchase or of goodwill or of any profits which may be or might have been made from the undertaking or of any similar consideration.

(3) Where an undertaking of a licensee, being a local authority, is sold under sub-section (2) of section 5, the purchase price of the undertaking shall be such as the State Government, having regard to the market value of the undertaking at the date of delivery of the undertaking, may determine.

(4) Where an undertaking of a licensee is purchased under section 6, the purchase price shall be the value thereof as deter-

mined in accordance with the provisions of sub-sections (*1*) and (*2*):

Provided that there shall be added to such value such percentage, if any, not exceeding twenty per centum of that value as may be specified in the license on account of compulsory purchase.".

Amendment of section 8.

8. In section 8 of the principal Act,—

(*i*) for the words, figures and brackets "section 7, sub-section (*1*), neither a local authority nor the State Government purchases the undertaking", the words, figures and brackets "section 6, sub-section (*1*), the undertaking is not purchased by the State Electricity Board, the State Government or the local authority" shall be substituted;

(*ii*) in the proviso, for the words, figure, brackets and letter, "section 5, clause (*f*), proviso", the words, figures and brackets "section 5, sub-section (5), proviso" shall be substituted.

Amendment of section 9.

9. In section 9 of the principal Act, in sub-section (*1*), for the words beginning with "notice of the application to every local authority" and ending with "or intends to supply, energy", the following shall be substituted, namely:—

"notice of the application—

(*a*) to the State Electricity Board; and

(*b*) to every local authority both in the licensee's area of supply and also in the area in which such other person supplies, or intends to supply, energy".

Amendment of section 10.

10. In section 10 of the principal Act, for the words and figures "sections 5, 7 and 8", the words and figures "sections 5, 6 and 8" shall be substituted.

Amendment of section 12.

11. In section 12 of the principal Act,—

(*i*) in sub-section (2), for the words "owner and occupier", the words "owner or occupier" shall be substituted;

(*ii*) after sub-section (5), the following sub-section shall be inserted, namely:—

'(6) In this section, "occupier" of any building or land means a person in lawful occupation of that building or land.'.

Amendment of section 13.

12. In section 13 of the principal Act, in sub-section (*1*),—

(*i*) in clause (*a*), the brackets and words, "(not being a service line immediately attached, or intended to be immediately attached, to a distributing main, or the repair, renewal or amend-

ment of existing works of which the character or position is not to be altered)" shall be omitted;

(*ii*) after clause (*e*), the following explanation shall be inserted, namely:—

'*Explanation.*—In clauses (*a*) to (*e*), the word "works" includes a service line in, under, over, along or across a railway even if such line is immediately attached or intended to be immediately attached to a distributing main, but does not include—

(*i*) any other service line so attached or intended to be so attached to a distributing main, or

(*ii*) works which consist of the repair, renewal or amendment of existing works of which the character or position is not to be altered;'.

Amendment of section 20.

13. In section 20 of the principal Act,—

(*i*) in sub-section (*1*),—

(*a*) after the words "to which energy is or has been supplied by him", the words "or any premises or land, under, over, along, across, in or upon which the electric supply-lines or other works have been lawfully placed by him" shall be inserted;

(*b*) in clause (*a*), for the words "inspecting and testing", the words "inspecting, testing, repairing or altering" shall be substituted;

(*ii*) in sub-section (*2*), for the words beginning with "the District Magistrate or" and ending with "belonging to the consumer", the following shall be substituted, namely:—

"a Magistrate of the first class or in a presidency-town, by a Presidency Magistrate and after giving not less than twenty-four hours' notice in writing to the occupier—

(*a*) enter any premises or land referred to in sub-section (*1*) for any of the purposes mentioned therein;

(*b*) enter any premises to which energy is to be supplied by him, for the purpose of examining and testing the electric wires, fittings, works and apparatus for the use of energy, belonging to the consumer";

(*iii*) in sub-section (*3*), after the words "his premises", the words "or land" shall be inserted.

Amendment of section 21.

14. In section 21 of the principal Act,—

(*i*) in sub-section (*1*),—

(*a*) after the words "save as provided", the words, brackets and figure "in any conditions made under sub-section (*2*) or" shall be inserted;

(*b*) in the proviso, for the words "interfere with the supply by the licensee of energy to any other person", the following shall be substituted, namely:—

"interfere with—

(*a*) the safety or efficient working of a licensee's electric supply-lines or other works; or

(*b*) the supply of energy by the licensee to any other person";

(*ii*) in sub-section (*2*),—

(*a*) the words, brackets and figure "Subject to the provisions of sub-section (*1*)" shall be omitted;

(*b*) after the words "after consulting", the words "the State Electricity Board and also" shall be inserted;

(*iii*) in sub-section (*3*), for the word "cancel", the words "add any new condition or cancel or * amend" shall be substituted.

Insertion of new sections 22A and 22B.

15. After section 22 of the principal Act, the following sections shall be inserted, namely:—

Powers of State Government to give direction to a licensee in regard to the supply of energy to certain class of consumers.

"22A. (*1*) The State Government may, if in its opinion it is necessary in the public interest so to do, direct any licensee to supply, in preference to any other consumer, energy required by any establishment which being in the opinion of the State Government an establishment used or intended to be used for maintaining supplies and services essential to the community, is notified by that Government in the Official Gazette in this behalf.

(*2*) Where any direction is issued under sub-section (*1*) requiring a licensee to supply energy to any establishment and any difference or dispute arises as to the price or other terms and conditions relating to the supply of energy, the licensee shall not by reason only of such difference or dispute be entitled to refuse to supply energy but such difference or dispute shall be determined by arbitration.

(*3*) Where any agreement by a licensee, whether made before or after the commencement of the Indian Electricity (Amendment) Act, 1959, for the supply of energy with any establishment referred to in sub-section (*1*) expires, the licensee shall continue to supply energy to such establishment on the same terms and conditions as are specified in the agreement until he receives a notice in writing from the establishment requiring him to discontinue the supply.

(4) Notwithstanding anything contained in this Act, or in the Electricity (Supply) Act, 1948, or in his license or in any agreement entered into by him for the supply of energy, a licensee shall be bound to comply with any direction given to him under sub-section (1) and any action taken by him in pursuance of any such direction shall not be deemed to be a contravention of section 23.

54 of 1948.

22B. (1) If the State Government is of opinion that it is necessary or expedient so to do, for maintaining the supply and securing the equitable distribution of energy, it may by order provide for regulating the supply, distribution, consumption or use thereof.

Power to control the distribution and consumption of energy.

(2) Without prejudice to the generality of the powers conferred by sub-section (1) an order made thereunder may direct the licensee not to comply, except with the permission of the State Government, with—

(i) the provisions of any contract, agreement or requisition whether made before or after the commencement of the Indian Electricity (Amendment) Act, 1959, for the supply (other than the resumption of a supply) or an increase in the supply of energy to any person, or

(ii) any requisition for the resumption of supply of energy to a consumer after a period of six months, from the date of its discontinuance, or

(iii) any requisition for the resumption of supply of energy made within six months of its discontinuance, where the requisitioning consumer was not himself the consumer of the supply at the time of its discontinuance.".

16. In section 23 of the principal Act, in sub-section (1), the words "but may, save as aforesaid, make such charges for the supply of energy as may be agreed upon, not exceeding the limits imposed by his license" shall be omitted.

Amendment of section 23.

17. In section 24 of the principal Act, in sub-section (2), for the words "has been referred under this Act to an Electric Inspector", the words "which by or under this Act is required to be determined by an Electrical Inspector, has been referred to the Inspector" shall be substituted.

Amendment of section 24.

18. In section 25 of the principal Act,—

(i) after the word "premises", the words "or land" shall be inserted;

Amendment of section 25.

(*ii*) the words "for the purpose of supplying energy," shall be omitted.

Amendment of section 26.

19. In section 26 of the principal Act,—

(*i*) in sub-section (5), for the words beginning with "without giving" and ending with "his intention", the following shall be substituted, namely:—

"but he may by giving not less than forty-eight hours' notice in writing to the licensee require the licensee to connect or disconnect such meter and on receipt of any such requisition the licensee shall comply with it within the period of the notice";

(*ii*) for sub-section (*6*), the following sub-section shall be substituted, namely:—

"(*6*) Where any difference or dispute arises as to whether any meter referred to in sub-section (*1*) is or is not correct, the matter shall be decided, upon the application of either party, by an Electrical Inspector; and where the meter has, in the opinion of such Inspector ceased to be correct, such Inspector shall estimate the amount of the energy supplied to the consumer or the electrical quantity contained in the supply, during such time, not exceeding six months, as the meter shall not, in the opinion of such Inspector, have been correct; but save as aforesaid, the register of the meter shall, in the absence of fraud, be conclusive proof of such amount or quantity:

Provided that before either a licensee or a consumer applies to the Electrical Inspector under this sub-section, he shall give to the other party not less than seven days' notice of his intention so to do.".

Amendment of section 28.

20. In section 28 of the principal Act,—

(*i*) for sub-section (*1*), the following sub-sections shall be substituted, namely:—

"(*1*) No person, other than a licensee, shall engage in the business of supplying energy to the public except with the previous sanction of the State Government and in accordance with such conditions as the State Government may fix in this behalf, and any agreement to the contrary shall be void.

(*1A*) The State Government shall not give any sanction under sub-section (*1*)—

(*a*) except after consulting the State Electricity Board; and

(*b*) except with the consent—

(*i*) in any case where energy is to be supplied in any area for which a local authority is constituted, of that local authority;

(*ii*) in any case where energy is to be supplied in any area forming part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, of the Central Government;

(*iii*) in any area falling within the area of supply of a licensee, of that licensee:

Provided that except in a case falling under sub-clause (*ii*), no such consent shall be necessary if the State Government is satisfied that such consent has been unreasonably withheld.";

(*ii*) in sub-section (2), after the words "supplying energy", the words "to the public" shall be inserted.

Amendment of section 29.

21. In section 29 of the principal Act, in sub-section (*1*), after the words "supplying energy", the words "to the public" shall be inserted.

Amendment of section 30.

22. In section 30 of the principal Act, in sub-section (*1*), for the words, brackets, letters and figures beginning with "No person other than a licensee" and ending with "as may be applicable", the following shall be substituted, namely:—

"No person other than a licensee or a person to whom sanction is granted under section 28, duly authorised under the terms of his license or sanction, as the case may be, shall transmit or use energy at a rate exceeding two hundred and fifty watts and one hundred volts—

(*a*) in any street, or

(*b*) in any place,—

(*i*) in which one hundred or more persons are likely ordinarily to be assembled, or

(*ii*) which is a factory within the meaning of the Factories Act, 1948, or a mine within the meaning of the Mines Act, 1952, or

63 of 1948.
35 of 1952.

(*iii*) to which the State Government, by general or special order, declares the provisions of this sub-section to apply,

without giving, before the commencement of transmission or use of energy, not less than seven days' notice in writing of his intention to the Electrical Inspector and to the District Magistrate, or in a presidency-town to the Commissioner of Police, containing particulars of the electrical installation and plant, if any, the nature and the purpose of supply, and complying with such of the provisions of Part IV, and of the rules made thereunder, as may be applicable".

Amendment of section 31.

23. In section 31 of the principal Act,—

(*i*) after the word "railway," where it occurs for the first time, the word "aerodrome," shall be inserted;

(*ii*) after the word "railway," where it occurs for the second time, the word "airway," shall be inserted.

Amendment of section 33.

24. In section 33 of the principal Act,—

(*i*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) If any accident occurs in connection with the generation, transmission, supply or use of energy in or in connection with, any part of the electric supply-lines or other works of any person and the accident results or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, such person shall give notice of the occurrence and of any such loss or injury actually caused by the accident, in such form and within such time as may be prescribed, to the Electrical Inspector and to such other authorities as the appropriate Government may by general or special order, direct.";

(*ii*) in sub-section (2), for the words "The State Government", the words "The appropriate Government" shall be substituted;

(*iii*) after sub-section (2), the following sub-section shall be inserted, namely:—

"(*3*) Every Electrical Inspector or other person holding an inquiry under sub-section (*2*) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects; and every person required by an Electrical Inspector or such other person as aforesaid to furnish any information shall be deemed to be legally bound to do so within the meaning of section 176 of the Indian Penal Code.". 5 of 1908. 45 of 1860.

Amendment of section 34.

25. In section 34 of the principal Act,—

(*i*) for the words "State Government" wherever they occur, the words "appropriate Government" shall be substituted;

(*ii*) in sub-section (2), for the words "the use of any electric supply-line", the words "the use of, and the supply of energy to, any electric supply-line" shall be substituted.

Substitution of new section for section 36.

26. For section 36 of the principal Act, the following section shall be substituted, namely:—

Appointment of Electrical Inspectors.

"36. (*1*) The appropriate Government may, by notification in the Official Gazette, appoint duly qualified persons to be Electrical Inspectors and every Electrical Inspector so appointed shall exercise the powers and perform the functions of an Electrical Inspector under this Act within such areas or in respect of such class of works and electric installations and subject to such restrictions as the appropriate Government may direct.

(*2*) In the absence of express provision to the contrary in this Act, or any rule made thereunder, an appeal shall lie from the decision of an Electrical Inspector to the appropriate Government or if the appropriate Government, by general or special order so directs, to an Advisory Board.".

Amendment of section 36A.

27. In section 36A of the principal Act,—

(*i*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) The Central Electricity Board shall consist of the following members, namely:—

(*a*) a Chairman and five other members to be nominated by the Central Government;

(*b*) one member to be nominated by the Governments of each of the States, not being a Union territory, to which this Act extends;

(*c*) one member to be nominated by the Central Government to represent each of the Union territories of Delhi and Himachal Pradesh;

(*d*) one member to be nominated by the Central Government to represent the Union territories of Manipur, Tripura and the Andamans and Nicobar Islands;

(*e*) one member to be nominated by each of the State Electricity Boards;

(*f*) one member to be nominated by the Central Government to represent the Federation of Electricity Undertakings of India;

(*g*) one member to be nominated by the Railway Board;

(*h*) one member to be nominated by the Chief Inspector of Mines appointed under section 5 of the Mines Act, 1952; and 35 of 1952.

(*i*) one member to be nominated by the Indian Standards Institution constituted under the Indian Standards Institution (Certification Marks) Act, 1952."; 36 of 1952.

(*ii*) sub-section (*6*) shall be omitted.

Omission of section 36B.

28. Section 36B of the principal Act shall be omitted.

Amendment of section 37.

29. In section 37 of the principal Act, in sub-section (*3*), for the words, brackets and letters "clause (*f*) or clause (*h*)", the words, brackets and letters "clauses (*e*) to (*j*) (both inclusive)" shall be substituted.

Amendment of section 38.

30. In section 38 of the principal Act, for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) All rules made under section 37 shall be published in the Gazette of India and shall be laid for not less than thirty days before each House of Parliament as soon as may be after such publication and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.".

Substitution of new section for section 42.

31. For section 42 of the principal Act, the following section shall be substituted, namely:—

Penalty for illegal or defective supply or for non-compliance with order.

"42. Whoever—

(*a*) being a licensee or a person who has obtained the sanction of the State Government under section 28 to engage in the business of supplying energy to the public, save as permitted under section 27 or section 51 or by his license or as the case may be, by the conditions of sanction, supplies energy or lays down or places any electric supply-line or works outside the area of supply; or

(*b*) being a licensee or a person who has obtained the sanction of the State Government as aforesaid, in contravention of the provisions of this Act or of the rules thereunder, or in breach of the conditions of license or of the sanction, as the case may be, and without reasonable excuse, the burden of proving which shall lie on him, discontinues the supply of energy or fails to supply energy; or

(*c*) makes default in complying with any of the provisions of an order or of any notice or requisition issued under section 5 or section 6; or

(*d*) makes default in complying with any directions issued to him under section 22A; or

(*e*) makes default in complying with any order issued to him under section 22B or sub-section (*2*) of section 34;

shall be punishable with fine which may extend to one thousand rupees, and, in the case of a continuing offence or default, with a daily fine which may extend to one hundred rupees.".

Amendment of section 44.

32. In section 44 of the principal Act,—

(*i*) in clause (*a*), the words ", without giving to the licensee forty-eight hours' notice in writing of his intention" shall be omitted;

(*ii*) in clause (*b*), the words ", without such licensee's consent" shall be omitted.

Amendment of section 47.

33. In section 47 of the principal Act, after the words "conditions of his license", the words and figures "or in the case of a person who has obtained the sanction of the State Government under section 28, with any of the conditions of the sanction" shall be inserted.

Insertion of new section 49A.

34. After section 49 of the principal Act, the following section shall be inserted, namely:—

Offences by companies.

'49A. (*1*) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.'.

Amendment of section 51.

35. In section 51 of the principal Act, for the words "Appliances and apparatus for the transmission of energy, confer upon any public officer or licensee", the words "electric supply-lines, appliances and apparatus for the transmission of energy or for the purpose of telephonic or telegraphic communications necessary for the proper co-ordination of works, confer upon any public officer, licensee or any other person engaged in the business of supplying energy to the public under this Act" shall be substituted.

Insertion of new section 51A.

36. After section 51 of the principal Act, the following section shall be inserted, namely:—

State Government to have powers and obligations of a licensee under this Act.

"51A. Where the State Government engages in the business of supplying energy to the public, it shall have all the powers and obligations of a licensee under this Act:

Provided that nothing in sections 3 to 11 (both inclusive), section 21, sub-sections (2) and (3), sections 22 and 27 or in clauses I to V (both inclusive), clause VII and clauses IX to XII (both inclusive) of the Schedule relating to the duties and obligations of a licensee shall apply to the State Government:

Provided further that the provisions of clause VI of the Schedule shall apply to the State Government in respect of that area only where distribution mains have been laid by the State Government and the supply of energy through any of them has commenced.".

Amendment of section 52.

37. To section 52 of the principal Act, the following proviso shall be added, namely:—

"Provided that where the Government or a State Electricity Board is a party to a dispute, the dispute shall be referred to two arbitrators, one to be appointed by each party to the dispute.".

Amendment of section 54.

38. In section 54 of the principal Act, for the words, figures, brackets and letter "section 5, clause (*f*), section 6, sub-section (2)", the words, figures and brackets "section 5, sub-section (5)" shall be substituted.

39. Section 56 of the principal Act shall be re-numbered as sub-section (*1*) thereof, and after the sub-section as so re-numbered, the following sub-section shall be inserted, namely:— Amendment of section 56.

"(*2*) No court shall take cognizance of an offence under this Act, by a public officer except with the sanction—

(*a*) in the case of a person employed in connection with the affairs of the Union, of the Central Government; and

(*b*) in any other case, of the State Government.".

40. In the Schedule to the principal Act,— Amendment of the Schedule.

(*a*) in clause I,—

(*i*) in sub-clauses (*a*) and (*b*), for the words, figures, brackets and letter "section 4, sub-section (*3*), clause (*b*)", the words, figures, letter and brackets "section 4A, sub-section (*1*)" shall be substituted;

(*ii*) after clause (*c*), the following proviso shall be added, namely:—

"Provided that if the works referred to in clause IV are not executed to the satisfaction of the State Government within the period specified in that clause, that Government may by order direct that the whole or any part of the sum so deposited or secured shall be forfeited to it.".

(*b*) in clause II, in sub-clause (*b*), after the words "and information", the brackets and words "(including technical data and statements of energy generated and sold)" shall be inserted;

(*c*) in clause III, for the words "capital employed for the purposes of the undertaking", the words "undertaking relating to the generation, supply or distribution of energy" shall be substituted;

(*d*) in clause V,—

(*i*) in sub-clause (*1*), for the words "six or more", the words "two or more" shall be substituted;

(*ii*) in sub-clause (*1*) (*a*),—

(*a*) after the words "written contract", the words "in a form approved by the State Government" shall be inserted;

(*b*) for the words "produce annually, at the current rates charged by the licensee, a reasonable return to the licensee", the words and brackets "assure to the licensee at the current rates charged by him, an annual revenue not exceeding fifteen per centum of the cost of the distributing mains (not including transformers and other sub-

station equipment) required to comply with the requisition" shall be substituted;

(*iii*) for sub-clause (*2*), the following sub-clause shall be substituted, namely:—

"(*2*) Where any difference or dispute arises between the licensee and such owners or occupiers as to the sufficiency of the security offered under this clause, or as to the cost of the distributing mains or as to the amount of energy to be taken or guaranteed as aforesaid, the matter shall be referred to the Electrical Inspector and decided by him.";

(*e*) in clause VI,—

(*i*) in sub-clause (*1*), in the first proviso, in part (*a*), for the words "produce, at current rates charged by the licensee, a reasonable return to the licensee", the words "assure to the licensee at the current rates charged by him, an annual revenue not exceeding fifteen per centum of the cost of the service line required to comply with the requisition" shall be substituted;

(*ii*) in sub-clause (*2*), for the words "maintained by the licensee", the words "maintained by the licensee who shall also have the right to use it for the supply of energy to any other person" shall be substituted;

(*iii*) in sub-clause (*3*), after the words "by any owner or occupier", the words "or as to the position of the meter board" shall be inserted;

(*f*) in clause VII, for the words "any five or more", the words "any one or more" shall be substituted;

(*g*) in clause VIII, after sub-clause (*1*), the following sub-clause shall be inserted, namely:—

"(*1A*) The State Government or, as the case may be, a local authority may require the licensee—

(*a*) to provide the mains and other equipments for public lamps, and

(*b*) to use for that purpose supports, if any, previously erected or set up by him for supply of energy.".

(*h*) in clause IX,—

(*i*) in sub-clause (*1*) (*b*), for the words "as will produce a reasonable return to the bulk-licensee on the outlay", the words "as will assure to the bulk-licensee an annual reve-

nue not exceeding fifteen per centum of the outlay" shall be substituted;

(*ii*) sub-clause (*1*) (*c*) shall be omitted;

(*i*) in clause X, in sub-clause (*2*), for the words and brackets "to the local authority (if any) concerned", the words and brackets "to the State Electricity Board and the local authority (if any) concerned and to the Electrical Inspector" shall be substituted;

(*j*) clauses XI and XIA shall be omitted;

(*k*) in clause XII, after the words "for the public lamps", the words "and other charges to be paid to him in connection therewith" shall be inserted;

(*l*) in clause XIV, after the words "shall afford", the words "to an Electrical Inspector or other person authorised by such Inspector" shall be inserted;

(*m*) in clause XV,—

(*i*) for the words "Electric Inspector" where they occur for the first time, the words and brackets "Electrical Inspector or a person authorised by him in this behalf (hereinafter referred to as the authorised person)" shall be substituted;

(*ii*) for the words "Electric Inspector" wherever they occur elsewhere in the clause, the words "Electrical Inspector or the authorised person" shall be substituted.

Consequential amendments in the Electricity (Supply) Act, 1948.

41. The following amendments being amendments consequential upon the amendments made in the principal Act by the foregoing sections shall be made in the Electricity (Supply) Act, 1948, namely:— 54 of 1948.

(*i*) in section 26, in the first proviso, for the words and figures "sections 22, 23 and 27", the words, figures, brackets and letter "section 22, sub-section (*2*) of section 22A and sections 23 and 27" shall be substituted;

(*ii*) section 71 shall be omitted;

(*iii*) in the Sixth Schedule, in paragraph I, after the words and figures "the Indian Electricity Act, 1910", the brackets, words, figures and letter "[except sub-section (2) of section 22A]" shall be inserted.

APPENDIX I

(*Vide* para 2 of the Report)

Motion in the Lok Sabha for reference of the Bill to a Joint Committee

"That the Indian Electricity (Amendment) Bill, 1958, be referred to a Joint Committee of the Houses consisting of 45 members; 30 from this House, namely:—

1. Sardar Hukam Singh
2. Shri Pendekanti Venkatasubbaiah
3. Shri Vinayak Rao K. Koratkar
4. Shri Maneklal Maganlal Gandhi
5. Shri Chandramani Lal Choudhry
6. Shri Shree Narayan Das
7. Shri Shivram Rango Rane
8. Shri Ramappa Balappa Bidari
9. Shri K. R. Sambandam
10. Shri M. Ayyakkannu
11. Shri N. K. Pangarkar
12. Sardar Amar Singh Saigal
13. Shri M. G. Uikey
14. Shri Abdul Latif
15. Shri Pulin Behari Banerji
16. Shri Bhagwan Din Misra
17. Shri Ram Shanker Lal
18. Shrimati Krishna Mehta
19. Shri S. Hansda
20. Shri Diwan Chand Sharma
21. Shri G. D. Somani
22. Shri K. T. K. Tangamani
23. Shri P. K. Vasudevan Nair
24. Shri Shraddhakar Supakar
25. Shri Ignace Beck
26. Shri Purushottamdas R. Patel

27. Shri Baishnab Charan Mullick

28. Shri Premji R. Assar

29. Shri Braj Raj Singh, and

30. Shri Jaisukhlal Lalshanker Hathi

and 15 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the first day of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee."

APPENDIX II

(*Vide* para 3 of the Report)

Motion in the Rajya Sabha

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill further to amend the Indian Electricity Act, 1910, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

1. Shrimati Pushpalata Das
2. Captain Awadhesh Pratap Singh
3. Shri J. C. Chatterjee
4. Shri G. R. Kulkarni
5. Sardar Darshan Singh Pheruman
6. Shri Braj Bihari Sharma
7. Shri N. M. Lingam
8. Shri Bibudhendra Misra
9. Shri B. C. Nanjundaiya
10. Shri Rama Bahadur Sinha
11. Shri K. L. Narasimham
12. Shri Devendra Prasad Singh
13. Shri Jaswant Singh
14. Shri A. N. Khosla
15. Hafiz Mohammad Ibrahim."

APPENDIX III

(*Vide* para 9 of the Report)

Statement showing particulars of memoranda/representations etc. received by the Joint Committee and the action taken thereon

Serial No.	Name of document	From whom received	Action taken
1	Memorandum	The Federation of Electricity Undertakings of India, Bombay.	Circulated to Members and evidence of the Federation taken on the 21st January, 1959.
2	Memorandum	Shri Naval Sorabji Bhathena, Belgaum.	Placed in the Parliament Library and Members informed.
3	Representation	Shri C. Kesaviah Naidu, Chittoor District.	Do.

APPENDIX IV

MINUTES OF THE SITTINGS OF THE JOINT COMMITTEE ON THE INDIAN ELECTRICITY (AMENDMENT) BILL, 1958.

I

First Sitting

The Committee met from 15.45 hours to 16.00 hours on Monday, the 15th December, 1958.

PRESENT

Sardar Hukam Singh—*Chairman*

MEMBERS

Lok Sabha

2. Shri Pendekanti Venkatasubbaiah
3. Shri Maneklal Maganlal Gandhi
4. Shri Shivaram Rango Rane
5. Shri Ramappa Balappa Bidari
6. Shri M. Ayyakkannu
7. Sardar Amar Singh Saigal
8. Shri Abdul Latif
9. Shri Pulin Behari Banerji
10. Shri Bhagwan Din Misra
11. Shrimati Krishna Mehta
12. Shri S. Hansda
13. Shri Diwan Chand Sharma
14. Shri G. D. Somani
15. Shri K. T. K. Tangamani
16. Shri P. K. Vasudevan Nair
17. Shri Shraddhakar Supakar
18. Shri Ignace Beck
19. Shri Purushottamdas R. Patel

20. Shri Baishnab Charan Mullick

21. Shri Premji R. Assar

22. Shri Braj Raj Singh

23. Shri Jaisukhlal Lalshanker Hathi.

Rajya Sabha

24. Shrimati Pushpalata Das

25. Shri Braj Bihari Sharma

26. Shri N. M. Lingam

27. Shri B. C. Nanjundaiya.

DRAFTSMAN

Shri S. K. Hiranandani, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri R. R. Bahl, *Joint Secretary, Ministry of Irrigation and Power.*

Shri G. D. Kshetrapal, *Deputy Secretary, Ministry of Irrigation and Power.*

Shri N. S. Vasant, *O. S. D., Ministry of Irrigation and Power.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee decided that a Press Communique might be issued advising associations, public bodies, companies and others who desire to present their suggestions or views before the Committee in respect of the Bill to send written memorandum thereon to the Lok Sabha Secretariat by the 7th January, 1959.

3. The Committee authorised the Chairman to decide, after receipt of memoranda, as to which of the Associations, public bodies, companies or individuals might be called upon to give oral evidence before the Committee.

4. The Committee further decided to hear evidence on the 21st January, 1959 and thereafter to take up consideration of the Bill.

5. The Committee then decided that the following might be obtained from the Ministry of Irrigation and Power and circulated to the Members:—

(i) The Indian Electricity Act, 1910.

(ii) Statement showing the prevailing rates of electricity in towns with a population of one lakh and over.

6. The Chairman suggested that notices of amendments to the Bill might be sent to the Lok Sabha Secretariat preferably by the 15th January, 1959, for circulation to the members of the Committee.

7. The Committee then adjourned to meet again at 14-30 hours on Wednesday, the 21st January, 1959.

II

Second Sitting

The Committee met from 14·30 hours to 16·35 hours on Wednesday, the 21st January, 1959.

PRESENT

Sardar Hukam Singh—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Vinayak Rao K. Koratkar
3. Shri Maneklal Maganlal Gandhi
4. Shri Shree Narayan Das
5. Shri Shivram Rango Rane
6. Shri K. R. Sambandam
7. Shri M. Ayyakkannu
8. Shri N. K. Pangarkar
9. Sardar Amar Singh Saigal
10. Shri M. G. Uikey
11. Shri Abdul Latif
12. Shri Pulin Behari Banerji
13. Shri Bhagwan Din Misra
14. Shri Ram Shanker Lal
15. Shrimati Krishna Mehta
16. Shri S. Hansda
17. Shri Diwan Chand Sharma
18. Shri K. T. K. Tangamani
19. Shri P. K. Vasudevan Nair
20. Shri Shraddhakar Supakar
21. Shri Ignace Beck
22. Shri Purushottamdas R. Patel
23. Shri Baishnab Charan Mullick
24. Shri Premji R. Assar
25. Shri Braj Raj Singh
26. Shri Jaisukhlal Lalshanker Hathi.

27. Shrimati Pushpalata Das
28. Captain Awadhesh Pratap Singh
29. Shri J. C. Chatterjee
30. Shri G. R. Kulkarni
31. Sardar Darshan Singh Pheruman
32. Shri Braj Bihari Sharma
33. Shri N. M. Lingam
34. Shri Bibudhendra Misra
35. Shri B. C. Nanjundaiya
36. Shri Rama Bahadur Sinha
37. Shri K. L. Narasimham
38. Shri Devendra Prasad Singh
39. Shri Jaswant Singh
40. Hafiz Mohammed Ibrahim.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri N. S. Vasant, *O. S. D., Ministry of Irrigation and Power.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

WITNESSES

The Federation of Electricity Undertakings of India, Bombay

1. Shri N. C. Javeri
2. Shri K. M. Chinnappa
3. Shri R. P. Aiyer.

2. The Committee heard the evidence tendered by the representatives of the Federation of Electricity Undertakings of India, Bombay.

3. A. verbatim record of the evidence was taken down.

4. The Committee then adjourned to meet again at 14·00 hours on Thursday, the 22nd January, 1959.

III

Third Sitting

The Committee met from 14·00 hours to 18·03 hours on Thursday, the 22nd January, 1959.

PRESENT

Sardar Hukam Singh—*Chairman*

MEMBERS

Lok Sabha

2. Shri Vinayak Rao K. Koratkar
3. Shri Maneklal Magan Lal Gandhi
4. Shri Shree Narayan Das
5. Shri Shivram Rango Rane
6. Shri Ramappa Balappa Bidari
7. Shri K. R. Sambandam
8. Shri M. Ayyakkannu
9. Shri N. K. Pangarkar
10. Sardar Amar Singh Saigal
11. Shri M. G. Uikey
12. Shri Abdul Latif
13. Shri Pulin Behari Banerji
14. Shri Bhagwan Din Misra
15. Shri Ram Shanker Lal
16. Shrimati Krishna Mehta
17. Shri S. Hansda
18. Shri Diwan Chand Sharma
19. Shri K. T. K. Tangamani
20. Shri P. K. Vasudevan Nair
21. Shri Shraddhakar Supakar
22. Shri Ignace Beck
23. Shri Purushottamdas R. Patel
24. Shri Baishnab Charan Mullick
25. Shri Premji R. Assar

26. Shri Braj Raj Singh
27. Shri Jaisukhlal Lalshanker Hathi.

Rajya Sabha

28. Shri J. C. Chatterjee
29. Shri G. R. Kulkarni
30. Sardar Darshan Singh Pheruman
31. Shri Braj Bihari Sharma
32. Shri N. M. Lingam
33. Shri Bibudhendra Misra
34. Shri B. C. Nanjundaiya
35. Shri K. L. Narasimham
36. Shri Devendra Prasad Singh
37. Shri Jaswant Singh
38. Hafiz Mohammad Ibrahim.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri R. R. Bahl, *Joint Secretary, Ministry of Irrigation and Power.*

Shri N. S. Vasant, *O. S. D., Ministry of Irrigation and Power.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee took up clause by clause consideration of the Bill.

3. *Clause* 2.—The clause was adopted without any amendment.

4. *Clause* 3.—The following amendment was accepted:

Page 2,

after line 21, *insert*—

"(iva) for clause (g) the following clause shall be substituted, namely:—

'(g) 'energy' means electrical energy—

(i) generated, transmitted or supplied for any purpose, or

(ii) used for any purpose except the transmission of a message';".

The Clause as amended was adopted.

5. *Clause* 4.—The following amendment was accepted:—

Page 3,

for lines 4—6, *substitute*—

"(i) in sub-section (1) for the words 'grant to any person a license' the words 'grant after consulting the State Electricity Board, a license to any person' shall be substituted".

The Clause as amended was adopted.

6. *Clause* 5.—The clause was adopted without any amendment.

7. *Clause* 6.—The Committee accepted in principle the following amendments:—

Page 5,

after line 12, *insert*—

"(3) Where the State Government proposes any alternation or amendments in any license under sub-section (1) otherwise then on the application of the licensee, the same provisions as are provided in sub-section (2) shall have effect."

The Draftsman was directed to suitably redraft the amendment for the consideration of the Committee.

Decision on the clause was held over.

8. *Clause* 7.—The following amendment was accepted:—

Page 7, line 4,

for "1958" *substitute* "1959".

The Committee felt that the Government might examine the following amendments:—

Page 6, line 15,

after "the State Government" *insert* "if it is satisfied about the solvency and ability of such other person to fulfil the conditions of the license".

Decision on the clause was held over.

9. The Committee then adjourned to meet again at 14.00 hours on Friday, the 23rd January, 1959.

IV

Fourth Sitting

The Committee met from 14·00 hours to 16·55 hours on Friday, the 23rd January, 1959.

PRESENT

Sardar Hukam Singh—*Chairman*

MEMBERS

Lok Sabha

2. Shri Vinayak Rao K. Koratkar
3. Shri Maneklal Magan Lal Gandhi
4. Shri Shree Narayan Das
5. Shri Shivram Rango Rane
6. Shri Ramappa Balappa Bidari
7. Shri K. R. Sambandam
8. Shri M. Ayyakkannu
9. Shri N. K. Pangarkar
10. Sardar Amar Singh Saigal
11. Shri M. G. Uikey
12. Shri Abdul Latif
13. Shri Pulin Behari Banerji
14. Shri Bhagwan Din Misra
15. Shri Ram Shanker Lal
16. Shrimati Krishna Mehta
17. Shri S. Hansda
18. Shri Diwan Chand Sharma
19. Shri G. D. Somani
20. Shri K. T. K. Tangamani
21. Shri P. K. Vasudevan Nair
22. Shri Shraddhakar Supakar
23. Shri Ignace Beck
24. Shri Purushottamdas R. Patel
25. Shri Baishnab Charan Mullick

26. Shri Premji R. Assar
27. Shri Braj Raj Singh
28. Shri Jaisukhlal Lalshanker Hathi

Rajya Sabha

29. Shrimati Pushpalata Das
30. Shri J. C. Chatterjee
31. Shri G. R. Kulkarni
32. Sardar Darshan Singh Pheruman
33. Shri Braj Bihari Sharma
34. Shri N. M. Lingam
35. Shri B. C. Nanjundaiya
36. Shri K. L. Narasimham
37. Shri Devendra Prasad Singh
38. Shri Jaswant Singh
39. Hafiz Mohammad Ibrahim.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri R. R. Bahl, *Joint Secretary, Ministry of Irrigation and Power.*

Shri N. S. Vasant, *O. S. D., Ministry of Irrigation and Power.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee resumed clause by clause consideration of the Bill.

3. *Clause* 6.—(*vide* para 7 of the minutes of the third sitting, dated the 22nd January, 1959).

The following re-draft submitted by the Draftsman was accepted:—

Page 5,

after line 12, *insert*—

"(3) Before making any alterations or amendments in a license otherwise than on the application of the

licensee, the State Government shall publish the proposed alterations or amendments in the prescribed manner and with the prescribed particulars and consider all objections received by it with reference to the proposed alterations or amendments within three months from the date of the first publication of the notice; and where alterations or amendments have been proposed in an area of supply such as is referred to in clause (c) of sub-section (2), the State Government shall not make any alterations or amendments except with the consent of the Central Government."

4. *Clause* 7.—(*vide* para 8 of the minutes of the third sitting, dated the 22nd January, 1959).

The following amendments were accepted:—

(i) Page 6, line 15,
for "shall" *substitute* "may".

(ii) Page 8, line 31,

Omit "fair".

The clause as amended was adopted subject to consequential amendments to be made by the Draftsman in view of amendment No. (1) above.

5. *Clauses* 8—10.—These clauses were adopted without any amendment.

6. *Clause* 11.—The following amendment was accepted:—

Page 10,

for lines 4—6, *substitute*—

"11. Amendment of section 12.—In section 12 of the principal Act,—

(i) in sub-section (2), for the words 'owner and occupier', the words 'owner or occupier', shall be substituted;

(ii) after sub-section (5), the following sub-section shall be inserted, namely:

'(6) In this section 'occupier', of any building or land means a person in lawful occupation of that building or land."

The Clause as amended was adopted.

7. *Clause* 12.—The following amendment was aceepted:—

Page 10,

for lines 7—13, *substitute*—

"12. Amendment of section 13.—In section 13 of the principal Act, in sub-section (1),—

(i) in clause (a), the brackets and words '(not being a service line immediately attached, or intended to be immediately attached, to a distributing main, or the repair, renewal or amendment of existing works of which the character or position is not to be altered)' shall be omitted;

(ii) after clause (e) the following explanation shall be inserted, namely:

Explanation—In clauses (a) to (e) the word 'works' includes a service line in, under, over, along or across a railway even if such service line is immediately attached or intended to be immediately attached to a distributing main, but does not include—

(i) any other service line so attached or intended to be attached to a distributing main, or

(ii) works which consist of the repair, renewal or amendment of existing works of which the character or position is not to be altered;"

The Clause as amended was adopted.

8. *Clause* 13.—The following amendment was accepted:—

Page 10,

(i) line 27,

after "a magistrate of the first class" *insert* "or in a Presidency town, by a Presidency Magistrate";

(ii) *after* line 31, *insert*—

"(iii) in sub-section (3) after the words 'his premises' the words 'or land' shall be inserted."

The Clause as amended was adopted.

9. *Clause* 14.—The following amendment was accepted:—

Page 11, line 15,

Omit "otherwise".

The Clause as amended was adopted.

10. *Clause* 15.—The following amendments were accepted:—

(A) Page 11,

(i) *for* lines 19—29, *substitute*—

"22A. (1) The State Government may, if in its opinion it is necessary in the public interest so to do, direct any licensee to supply, in preference to any other consumer, energy required by any establishment which being in the opinion of the State Government in establishment used or intended to be used for maintaining supplies and services essential to the community, is notified by that Government in the Official Gazette in this behalf."

(ii) line 39,

for "1958" *substitute* "1959".

(B) Page 12,

(i) line 13,

for "distribution, supply" *substitute* "supply, distribution".

(ii) line 21,

for "1958" *substitute* "1959".

The Clause as amended was adopted.

11. *Clauses* 16 *and* 17.—These clauses were adopted without any amendment.

12. *Clause* 18.—The following amendment was accepted:—

Page 12,

for lines 40-41, *substitute*—

"18. Amendment of section 25.—In section 25 of the principal Act,—

(a) after the word 'premises', the words 'or land' shall be substituted.

(b) the words 'for the purpose of supplying energy' shall be omitted."

The Clause as amended was adopted.

13. *Clauses* 19—26.—These clauses were adopted without any amendment.

14. *Clause* 27.—The following amendments were accepted:—

Page 16,

(i) line 25,

for "twenty-five" *substitute* "the following".

(ii) line 26,

for "four" *substitute* "five".

(iii) *after* line 36 *add*—

"(e) one member to be nominated by each of the State Electricity Boards;"

The Clause as amended was adopted.

15. *Clauses* 28 *and* 29.—These clauses were adopted without any amendment.

16. *New clause* 29A.—The following new clause was adopted:—

Page 17,

after line 12, *add*—

"29A. Amendment of section 38.—In section 38 of the principal Act, for sub-section (3) the following sub-section shall be substituted, namely:—

'(3) All rules made under section 37 shall be published in the Gazette of India and shall be laid not less than thirty days before each House of Parliament as soon as may be after such publication and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following' ".

17. *Clauses* 30—38.—These clauses were adopted without any amendment.

18. The Committee then adjourned to meet again at 10.00 hours on Saturday, the 24th January, 1959.

V

Fifth Sitting

The Committee met from 10·00 hours to 11·53 hours on Saturday, the 24th January, 1959.

PRESENT

Sardar Hukam Singh—*Chairman*

MEMBERS

Lok Sabha

2. Pendekanti Venkatasubbaiah
3. Shri Vinayak Rao K. Koratkar
4. Shri Maneklal Manganlal Gandhi
5. Shri Shree Narayan Das
6. Shri Shivram Rango Rane
7. Shri Ramappa Balappa Bidari
8. Shri K. R. Sambandam
9. Shri M. Ayyakkannu
10. Shri N. K. Pangarkar
11. Sardar Amar Singh Saigal
12. Shri M. G. Uikey
13. Shri Abdul Latif
14. Shri Pulin Behari Banerji
15. Shri Bhagwan Din Misra
16. Shri Ram Shanker Lal
17. Shrimati Krishna Mehta
18. Shri S. Hansda
19. Shri Diwan Chand Sharma
20. Shri K. T. K. Tangamani
21. Shri P. K. Vasudevan Nair
22. Shri Shraddhakar Supakar
23. Shri Ignace Beck
24. Shri Purushottamdas R. Patel

25. Shri Baishnab Charan Mullick
26. Shri Premji R. Assar
27. Shri Braj Raj Singh
28. Shri Jaisukhlal Lalshanker Hathi

Rajya Sabha

29. Shrimati Pushpalata Das
30. Shri J. C. Chatterjee
31. Shri G. R. Kulkarni
32. Sardar Darshan Singh Pheruman
33. Shri Braj Bihari Sharma
34. Shri N. M. Lingam
35. Shri B. C. Nanjundaiya
36. Shri K. L. Narasimham
37. Shri Devendra Prasad Singh
38. Shri Jaswant Singh
39. Shri A. N. Khosla.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri R. R. Bahl, *Joint Secretary, Ministry of Irrigation and Power.*

Shri N. S. Vasant, *O. S. D., Ministry of Irrigation and Power.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee resumed clause by clause consideration of the Bill.

3. *Clause* 39.—The following amendments were accepted:—

(a) Page 19,

for lines 41-42 *substitute*—

"(ii) after clause (c), the following proviso shall be added, namely:—

Provided that if the works are not executed within the period referred to in clause IV to the satisfac-

tion of the State Government, that Government may by order direct that the whole or a part of the sum so deposited or secured shall be forfeited to it."

(b) Page 20,

after line 39, *add*—

"(ii) In sub-clause (2), for the words 'maintained by the licensee' the words 'maintained by the licensee who shall also have the right to use it for the supply of energy to any other person' shall be substituted."

(c) Page 21, line 2,

for "two" *substitute* "one".

(d) Page 21,

for lines 3—10, *substitute*—

"(g) In clause VIII, after sub-clause (1), the following sub-clause shall be inserted, namely:—

'(1) The State Government or, as the case may be, a local authority may require the licensee—

(a) to provide the mains and other equipments for public lamps, and

(b) to use for that purpose supports if any, previously erected or set up by him for supply of energy.' "

The Clause as amended was adopted.

4. *New Clause* 40.—The following new clause was adopted:—

Page 21,

after line 38, *add*—

"40. Consequential amendments in the Electricity (Supply) Act, 1948. The following amendments being amendments made in the principal Act by the foregoing sections shall be made in the Electricity (Supply) Act, 1948, namely:—

(i) in section 26, in the first proviso, for the words and figures, 'sections 22, 23 and 27' the words, figures, letter and brackets 'section 22, sub-sections 23 and 27' shall be substituted;

(ii) section 71 shall be omitted;

(iii) in the Sixth Schedule, in paragraph I, after the words and figures 'the Indian Electricity Act, 1910' the brackets, words, figures and letter '(except sub-section (2) of section 22A)' shall be inserted."

5. The Committee decided to consider the draft Report at their next sitting.

6. The Committee then adjourned to meet again at 15.00 hours on Sunday the 8th February, 1959.

VI

Sixth Sitting

The Committee met from 15.00 hours to 15.18 hours on Sunday, the 8th February, 1959.

PRESENT

Sardar Hukam Singh—*Chairman*

MEMBERS

Lok Sabha

2. Shri Maneklal Maganlal Gandhi
3. Shri Shree Narayan Das
4. Shri Shivram Rango Rane
5. Shri K. R. Sambandam
6. Shri M. Ayyakannu
7. Shri N. K. Pangarkar
8. Sardar Amar Singh Saigal
9. Shri Abdul Latif
10. Shri Pulin Behari Banerji
11. Shri Ram Shanker Lal
12. Shrimati Krishna Mehta
13. Shri S. Hansda
14. Shri Diwan Chand Sharma
15. Shri K. T. K. Tangamani
16. Shri Shraddhakar Supakar
17. Shri Ignace Beck
18. Shri Baishnab Charan Mullick
19. Shri Premji R. Assar
20. Shri Braj Raj Singh
21. Shri Jaisukhlal Lalshanker Hathi

Rajya Sabha

22. Shrimati Pushpalata Das
23. Captain Awadhesh Pratap Singh.

24. Shri J. C. Chatterjee
25. Shri G. R. Kulkarni
26. Shri Braj Bihari Sharma
27. Shri B. C. Nanjundaiya
28. Shri Devendra Prasad Singh
29. Shri A. N. Khosla

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri N. S. Vasant, *O.S.D., Ministry of Irrigation and Power.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee adopted the Bill as amended.

3. The Committee then considered the draft Report and adopted the same.

4. The Committee decided that the evidence tendered before them might be laid on the Table of the House *in extenso* and a few copies of the written memorandum submitted by the Federation who tendered evidence might be placed in the Parliament Library for reference by the members of the two Houses.

5. The Committee authorised the Chairman and in his absence Shri Shivram Rango Rane to present the Report on their behalf and to lay the evidence on the Table of the House on the same day after the presentation of the Report.

6. The Committee also authorised Hafiz Mohammad Ibrahim and in his absence Shrimati Pushpalata Das to lay the Report and the Evidence on the Table of the Rajya Sabha.

7. The Committee decided that minutes of dissent, if any, should be sent to the Lok Sabha Secretariat so as to reach them by 11.00 hours on Monday, the 9th February, 1959.

8. The Committee then adjourned at 15.18 hours.

C.B. (II) No. 88

LOK SABHA

THE STATE BANK OF INDIA (SUBSIDIARY BANKS) BILL, 1959

(Report of the Joint Committee)

PRESENTED ON THE 3RD AUGUST, 1959

LOK SABHA SECRETARIAT
NEW DELHI
August, 1959

Price Rs. 1·50 nP.

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THE STATE BANK OF INDIA (SUBSIDIARY BANKS) BILL, 1959

Composition of the Joint Committee

Shri J. M. Mohamed Imam—*Chairman.*

MEMBERS

Lok Sabha

2. Shri C. Bali Reddy
3. Shri M. R. Krishna
4. Dr. Ram Subhag Singh
5. Shri Shree Narayan Das
6. Dr. M. S. Aney
7. Kumari Maniben Vallabhbhai Patel
8. Major Raja Bahadur Birendra Bahadur Singh
9. Shri Amar Singh Damar
10. Shri K. G. Wodeyar
11. Shri T. Ganapathy
12. Shri M. Palaniyandy
13. Shri Bahadur Singh
14. Shri S. R. Damani
15. Dr. Pashupati Mandal
16. Shri Vishnu Sharan Dublish
17. Shri Lachhi Ram
18. Shri Panna Lal
19. Shri Kanhu Charan Jena
20. Shri K. S. Ramaswamy
21. Shri Ram Shanker Lal
22. Shri B. R. Bhagat
23. Shri Prabhat Kar
24. Shri P. K. Kodiyan
25. Shri Ram Chandra Majhi
26. H.H. Maharaja Pratap Keshari Deo
27. Shri Subiman Ghose
28. Shri Laisram Achaw Singh

29. Shri Balasaheb Salunke
30. Shri Morarji Desai

Rajya Sabha

31. Shri K. P. Madhavan Nair
32. Shri Tika Ram Paliwal
33. Shri Jaspat Roy Kapoor
34. Shrimati Pushpalata Das
35. Shri Jadavji Keshavji Modi
36. Dr. Anup Singh
37. Shri N. M. Lingam
38. Syed Mazhar Imam
39. Shri Jagannath Prasad Agrawal
40. Shri Niranjan Singh
41. Shri P. Narayanan Singh
42. Shri Harihar Patel
43. Shri Mulka Govinda Reddy
44. Dr. P. J. Thomas
45. Dr. B. Gopala Reddy

DRAFTSMEN

Shri S. K. Hiranandani, *Joint Secretary and Draftsman, Ministry of Law.*

Shri V. N. Bhatia, *Deputy Draftsman, Ministry of Law.*

SECRETARIAT

Shri S. L. Shakdher—*Joint Secretary.*

Shri A. L. Rai—*Under Secretary.*

Report of the Joint Committee

I, the Chairman of the Joint Committee to which the *Bill to provide for the formation of certain Government or Government associated banks as subsidiaries of the State Bank of India and for the constitution, management and control of the subsidiary banks so formed, and for matters connected therewith, or incidental thereto, was referred, having been authorised to submit the report on their behalf, present their Report with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 4th March, 1959.

3. The motion for reference of the Bill to Joint Committee of the Houses was moved by Dr. B. Gopala Reddi, Minister of Revenue and Civil Expenditure, on the 29th April, 1959, and was discussed and adopted on the same day (Appendix I).

4. The Rajya Sabha discussed and concurred in the said motion on the 6th May, 1959 (Appendix II).

5. The message from Rajya Sabha was read out to the Lok Sabha on the 9th May, 1959.

6. The Committee held five sittings in all.

7. The first sitting of the Committee was held on the 9th May, 1959, to draw up a programme of work. The Committee, at this sitting also decided to hear evidence from associations and individuals desirous of presenting their suggestions or views before the Committee. The Chairman was authorised to decide, after examining the memoranda submitted by them, as to which of the associations and individuals might be called to tender oral evidence before the Committee.

8. Five memoranda/representations on the Bill were received by the Committee from different associations and individuals as mentioned in Appendix III.

9. The Committee considered the Bill clause by clause at their second, third and fourth sittings held on the 1st, 2nd and 3rd July, 1959, respectively. At the fourth sitting, the Committee also heard evidence tendered by the All India Bank Employees' Association, Delhi.

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*Published in Part II, Section 2 of the Gazette of India Extraordinary, dated the 4th March, 1959.

10. The Committee have decided to lay the evidence tendered before them on the Table of the House.

11. The Committee considered and adopted the Report at their fifth sitting held on the 31st July, 1959.

12. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

13. *Clause* 13.—The Committee feel that the requirement that shareholders holding one-third in value of the paid-up capital should apply before a reference is made to a tribunal is onerous and the limit of one-third should therefore be reduced to one-fourth. Sub-clause (4) has been amended accordingly.

Sub-clause (7) has been amended to enable the State Bank to extend in appropriate cases, the period within which applications for the allotment of shares in a subsidiary bank should be made.

The other amendment made in this clause is of a clarificatory nature.

14. *Clause* 14.—The Committee feel that the amount of compensation to be offered to the Government of Punjab in respect of the Bank of Patiala and to the Government of Bombay in respect of the Saurashtra Bank ought to be determined by the State Bank in consultation with the Reserve Bank.

The clause has been amended accordingly.

15. *Clause* 19.—The Committee feel that the restriction on the registration of, or the payment of dividend on, shares in a subsidiary bank need not be enforced in respect of the initial allotment of shares in terms of clause 13(9). Clause 19 has been modified accordingly.

16. *Clause* 23.—The amendments made in this clause are intended to provide for the vacation of office by members of advisory committees or by advisers of existing banks.

17. *Clause* 25.—The Committee feel that the Central Government should be empowered to nominate a director in consultation with the State Bank, if it considers it necessary or desirable to do so in the case of any particular bank.

The Committee further feel that the directors appointed by the State Bank on the first constitution of Board of Directors under sub-clause (2) ought to retire at the expiry of one year instead of two years.

The clause has been amended accordingly.

18. *Clause* 26.—The amendments made in this clause are of a consequential nature.

19. *Clause* 27.—(1) The Committee feel that item (c) of sub-clause (1) which disqualifies persons removed or dismissed from Government service for being appointed as directors of the subsidiary banks ought to be amplified, to include persons removed or dismissed from the service of a local authority or a corporation or a company in which not less than fifty-one percent of the paid-up share-capital is held by Government. The clause has been amended accordingly.

(2) The Committee feel that the Central Government and not the State Bank should decide whether or not an offence for which a person has been convicted involves moral turpitude. Item (g) of sub-clause (1) has been amended accordingly.

(3) The other amendments made in this clause are of drafting or consequential nature.

20. *Clause* 28.—The amendment made in this clause is of a consequential nature.

21. *Clause* 29.—The Committee feel that before the general manager (other than the first general manager) of a subsidiary bank is appointed, the Board of Directors of that bank should be consulted.

Suitable provision has been made in the clause accordingly.

22. *Clauses* 31 *and* 33.—The amendments made in these clauses are of a consequential nature.

23. *Clause* 34.—The Committee feel that the Chairman of the State Bank who is the Chairman of the Board of Directors of a subsidiary bank ought to be empowered to authorise any of the directors of the Board, and not only the directors who have been nominated by the State Bank, to preside, in his absence, over the meetings of the Board.

The clause has been amended accordingly.

24. *Clause* 38.—A clarificatory amendment has been made in sub-clause (12).

25. The Joint Committee recommend that the Bill as amended be passed.

J. M. MOHAMMED IMAM,
Chairman,
Joint Committee.

NEW DELHI,
The 2nd August, 1959.

Minutes of Dissent

I

The Committee of Direction on All India Rural Credit Survey recommended for amalgamation of the Imperial Bank of India and other major and certain small State associated Banks and for the establishment of a State Bank of India. The State Bank of India has been established and it was naturally expected that the recommendation for amalgamation of other Banks will be given effect to in due course. But the present Bill under consideration seems to be a departure from that.

It will be clear from the provisions in the Bill that the Subsidiary Banks will be practically under full control of the State Bank and yet for legal and technical purposes they will be regarded as having separate entities. We wonder, if this scheme may not paralyse the activities of the existing Banks. The willing cooperation or consent of the existing Banks seem to be meaningless when one realises about the extent and nature of control by the State Bank over the Subsidiary Banks. A straight amalgamation of the existing Banks would have been more desirable.

There is a strong case for amalgamation of the Bank of Patiala at least, which is a fully government Bank, and to constitute it as a Subsidiary Bank seems to us a step retrograde.

The argument that by constituting subsidiary Banks lot of excess expenditure can be saved as the pay bills etc. will not be at a higher rate is not convincing, because in the State Bank of India (Amendment) Bill, 1959 itself there is provision for offer of different terms and conditions of employment in case of acquisition of business of other Banks and at the same time by amalgamation, lot of expenditure will be obviated by abolition of so many separate establishments.

Now coming to provisions of the Bill, the recommendation of the Joint Committee to amplify clause 27 so as to include persons removed or dismissed from service of a local authority is objectionable. Local authority includes also Village Panchayats and Municipalities etc. where the security and conditions of service of the employees are not well defined and are at times subject to political influences. Cases of vindictive removal and dismissal from service are numerous. As such it will be improper to reckon such removal or dismissal from service as disqualification.

Regarding Clause 38, we would like to say that it does not simplify the procedure of acquisition. Delegation of authority to the Government to expedite matters and to say that statutory provisions relating to the matter found inconsistent with governmental directions, will cease to apply, is hardly the way to simplify procedure. It is not in conformity with the principles of legislation and also offends the concept of rule of Law.

Sub-clause (8) of clause 38 also, does not seem to be reasonable. It should include provisions to guarantee fair offer to the employees by the subsidiary Banks regarding terms and conditions of service and also for recognition of continuity of service.

Clause 45 is not adequate safeguard against actions by persons impeding full and effective transfer of existing Banks.

There should be some penal clause to punish persons acting in a prejudicial manner pending transfer.

NEW DELHI;
Dated the 31*st July*, 1959.

HARIHAR PATEL.
P. K. DEO.

II

We feel obliged to append our note of dissent to the Bill because we have felt that some improvements could be made within the framework of this bill although this bill is not in conformity with the recommendations of the Report of the All India Rural Credit Survey which recommended for a complete merger with the State Bank of India.

The Bill was brought before the Parliament as a result of agreement reached with the managements of various state-associated Banks and where the Directors did not agree the Bank was left out of the purview of the Bill as it was in the case of the Bank of Rajasthan. We were thus faced with a situation where none of our suggestions could be accepted as it was stated that it was not possible for the Government to go beyond the term of agreement.

We must point out with regret that no step has been taken to effect rationalisation which according to us is an important factor on the question of running subsidiary companies. The existing paraphernalia has been allowed to continue in each bank while there is much scope for rationalisation at the top.

While dismissing the claim of the employees that they should be put at par with the employees of the State Bank of India, the Hon'ble Minister for Economic Affairs said it is not the intention of the Government to put the employees under any disadvantage. The sub-clauses (m), (n), (o) of the clause 63(2) negates this statement. The employees of the Banks, which will be termed as subsidiary Banks after the Bill is passed and given effect are today governed by the provision of the Industrial Disputes Act, 1947, but the sub-clauses referred to above will give the State Bank of India power to regulate the service conditions of the employees thus depriving them of their existing rights and privileges. These sub-clauses should have been omitted.

We strongly feel that in view of the great impetus these Banks will receive and the status which will be raised because of their association with the State Bank of India, the employees of these subsidiary Banks should be put at par with the employees of the State Bank of India. We are of the opinion that the refusal will be an act of injustice to the employees.

The clause 40 deals with the disposal of profit and we feel that provisions should also be made here for the declaration of Bonus to the staff.

The sub-clause (2) of the clause 16 negates the very purpose of a judicial enquiry. In order to have a fair enquiry and to ensure the feeling of satisfaction amongst the contending parties for proper justice it is essential that the power of the tribunal should not be curtailed and it must have the right to call for any documents but those can be treated as confidential and may not be punished.

These are in main our objections which we have tried to put briefly. We feel these are fundamental points and we should bring these to the notice of the House. Minor points there are many but we did not put them in our note as those can be taken up again when the Bill will be discussed.

NEW DELHI;
Dated the 1st August, 1959.

PRABHAT KAR.
P. K. KODIYAN.
P. NARAYANAN NAIR.

III

The functions of the Joint Committee according to my understanding, were for consideration of almost a *fait accompli*, that is for

ratification of the terms and conditions embodied in an Agreement entered into between the State Bank of India and the State-associated Banks. Moreover, we are told that this Bill bears a family likeness with that of the State Bank of India and in fact *mutatis mutandis,* it is a verbatim, if not a weak, copy of the afore-mentioned Act. We were confronted with two things—firstly, the expression of inability on the part of the Government to change the terms and conditions of the Agreement, regarding the existence of which, we were occasionally reminded and, secondly, when some members tried to put meaning into which seemed to be apparently meaningless or to remove some vagueness and confusion, it was pointed out that such and such clause has been adopted from the State Bank of India Act. By this, a circumscribed limit was drawn through which we are to move. Sandwiched between the two, as legislators, my feeling was that we have very little to achieve.

Another thing, which seemed to be very curious. That is where some confusion and vagueness or mistake was attempted to be removed, it was pointed out that such and such thing had not only been taken from the State Bank of India Act, but it occurs also in some three or four other Acts and by such removal, we shall be throwing these Acts overboard. Frankly speaking, this logic has got no appeal with me, rather I have not been able to adjust myself to it, practically denying oneself, the courage of conviction.

Let us now look for whom this Bill is intended. Certainly, not for the benefit of the Government. Had these Banks been straightaway made, the State Bank of India, the Government of India would have been spared of the paraphernalia of this Bill—the people at large would have been in a more secured position and the employees would have been happy but that was not done perhaps for the benefit of a limited class of people. The reading of the Bill leads one to such conclusion. Out of many, I give one example, The General Manager should give undivided attention to the upliftment of the Institution, he serves but he may be allowed to be the Director of some other Institution (*vide* clause 29), for which he is to direct some of his attention, if he is serious in both the matters. It smacks of something, as if this Bill was prepared keeping some model in front.

Now, I come to the employees. Some clauses have been drafted for this purpose. But I do not understand what prevented Government to give them the same privilege and pay like the employees of the State Bank of India, when these Banks are to all intents and purposes being made Government Institutions. On the other hand, some cumbrous position has been created. Government is entitled

to do everything against them except giving any benefit more than what they are already entitled.

It was raised regarding clause 15, that no provision should be made any further for the retired High Court and Supreme Court Judges as is usually done almost in every Act whenever appointment for any quasi-judicial post like the present one is to be made by the Executive, as that would be interfering with the independence of the judiciary, it was pointed out that that provision must remain as we are suffering for want of 'man'. Not only, interfering with judiciary, is it not worst compliment that one can pay to the people at large or also to the eleven years' unfettered leadership, which has been able to create perpetual vacuum, reminding the nation that for advancing its footsteps we have no other alternative but to depend on fatigued race horses. Provision like this should not, at all, be encouraged.

Apart from any objection regarding the nomination, election, removal and remuneration of the director, there are some portions which are fundamentally wrong. In clause 25, one nominated director' might be allowed to exercise the powers of the elected director, but his nomination shall be deemed as election—one fails to appreciate this principle. In clause 26, which has been attempted to be shown as innocent as anything—the director holding office during the pleasure of the authority nominating him means that he is to surrender his judgment and dance to the tune of such authority. In clause 27, a director might lose his post on his being elected to the Parliament or State Legislature but there is no bar of his contesting the election and when defeated, he does not stand to lose his post. In such a case, the chance of misusing his position is immense. These are some of the infirmities out of many.

Lastly, I have a word regarding draftsmanship, which leaves room for much improvement. Some clauses are inordinately long, so much so, that memory refuses to keep pace with the run of them. With a little bit of attempt, they can be made sizeable or may be split into several sections for better understanding. Whenever defects have been noticed, we have been frequently answered that such things have been taken from some other Acts. It is not at all convincing why some other Acts should always be thought as sacrosanct. Moreover, such kind of answers prove lack of original thinking. At the time of the discussion of the amendment of the State Bank of India Act in the same sitting, it was felt that some more amendments will be necessary in the said Act. The Act which has been passed in 1955, is again being amended in 1959 and perhaps further amendment will have to be made in quick succession. We

should not expect and desire that this Bill should be awaiting the same fate. It does not speak well of those in charge of framing and drafting.

Admitting a defect and to suitably correct it, is no discomfiture. The prestige of this august body should be everybody's first concern. It is not that every Act is always tested in Courts, but when these are tested, the Courts become relentless, if the Courts find any latches or lacunae in them. That brunt has to be borne by the Parliament which the draftsmanship will do well to remember.

NEW DELHI; SUBIMAN GHOSE.
Dated the 1st *August,* 1959.

IV

I regret that I cannot fully agree with the majority view.

First of all, the terms of reference or the purposes of State Bank of India (Subsidiary Banks) Bill, 1959 are limited. While the Rural Credit Survey Committee recommended amalgamation of the State or State-associated Banks with the State Bank of India, the present Bill seeks to make them subsidiaries to the State Bank of India. The original purpose was the creation of one strong, integrated, State-sponsored, State-partnered commercial banking institution with an effective machinery of branches spread over the whole country. It should also be noted that the branch extension of the State Bank of India should be co-ordinated and positively associated with the development of co-operative credit from the point of view, specially, of the provision of cheap remittance facilities according to the recommendations of the Committee of Direction on All India Rural Credit Survey. I doubt very much if the reconstitution of certain Government or Government-associated banks as subsidiaries as provided in the scheme of the Bill will fulfil the objectives set out in the Report of the Rural Credit Survey Committee.

I also feel that in the reconstituted banks, there is too much interference and control of the Reserve Bank, the State Bank of India and the Central Government, and little freedom is left to private shareholders to manage their own affairs. So I have not been able to agree to the amendment recommended by the Joint Select Committee to clause 25 whereby the Central Government has been authorised to nominate an additional director. Outright merger of these banks should have been the best remedy. Clauses 37 and 63 authorise the Central Government, the State Bank and the Reserve Bank to assume sweeping powers over these banks.

The subsidiary banks have to follow the instructions of the State Bank. The State Bank, before giving any instructions, has to get the concurrence of the Reserve Bank. In this way a highly complicated structure is provided in this Bill, for the supervision and management of the subsidiary banks. It can be avoided if the banks are made branches of the State Bank. Two elected directors of the Board of Directors will hardly have any voice in the managements of these banks, and just for psychological satisfaction a complicated machinery for supervision, direction and control should not be set up.

The terms of Clause 63(2) (m), (n) and (o) are not clear at all. Attempts have been made to isolate the employees of subsidiary banks from the rest and to impose upon them, the Government Service Rules and Code of Conduct. Clause 11 does not provide for any facilities and scales of pay and dearness allowances available to government servants. It simply says that the emoluments of the employees of the subsidiary banks will remain as they are. If the working conditions and emoluments of the State Bank of India employees and those of the employees of the subsidiary banks are the same, the common staff relationship will develop and problems of staff relations would not arise.

The credit expansion in the rural areas has been very negligible. Co-operative credit has been conspicuous by its absence in a Centrally administered area like Manipur. Not a single land mortgage bank could be started in that area so far. The condition is more or less the same everywhere. The State Bank has been unable to expand in the interior areas, specially, in the former Parts B and C States. The State or State-associated banks in these areas have not had the incentives and/or the financial assistance and backing. Small industries are not being helped adequately. If all the scheduled banks in the country could be brought within the purview of the State Bank, and all these subsidiary Banks are nationalised and integrated in a system of State Bank, monopolistic tendency in our economy would come to an end and the promotion of a balanced development of our economy would have been possible.

Now the work or progress of the reconstituted banks will have to be judged in future with reference to their ability to provide the basic services and facilities, which it is the function of a State Bank to provide. The provision of strong room and other safe deposit facilities, the collection and remittance of funds, the granting of loans to the co-operative movement and to small scale industrial units are the new services that are to be undertaken at all the branches of these banks. We have to watch the scheme in this light.

Lastly, a word on the Third Schedule. A number of amendments to certain enactments such as the Reserve Bank of India Act, State Bank of India Act, Banking Companies Act, etc., are sought to be introduced. Some of them are of major consequence and of great significance. They should have been provided in the body of the Bill or separate amending bills should be introduced. Otherwise, they are treated in a very light-hearted manner.

NEW DELHI;
Dated the 1st *August,* 1959.

L. ACHAW SINGH.

THE STATE BANK OF INDIA (SUBSIDIARY BANKS) BILL, 1959

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Bill No. 15B of 1959

THE STATE BANK OF INDIA (SUBSIDIARY BANKS) BILL, 1959

(AS AMENDED BY THE JOINT COMMITTEE)

(Words sidelined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions)

A

BILL

to provide for the formation of certain Government or Government-associated banks as subsidiaries of the State Bank of India and for the constitution, management and control of the subsidiary banks so formed, and for matters connected therewith, or incidental thereto.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title.

1. This Act may be called the State Bank of India (Subsidiary Banks) Act, 1959.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "appointed day" means,—

(*i*) in relation to an existing bank, the date on which the corresponding new bank is constituted under section 3;

(*ii*) in relation to a new bank, the date on which that new bank is constituted under section 3;

(*iii*) in relation to the Hyderabad Bank, the date on which the amendments to the State Bank of Hyderabad Act, 1956, take effect under Part VII of the Third Schedule;

79 of 1956.

(*iv*) in relation to the Saurashtra Bank, the date on which the amendments to the Saurashtra State Banks (Amalgamation) Ordinance, 1950, take effect under Part V of the Third Schedule; 10 of 1950.

(*b*) "corresponding bank" means,—

(*i*) in relation to the State Bank of Bikaner, the Bank of Bikaner, Limited;

(*ii*) in relation to the State Bank of Indore, the Bank of Indore, Limited;

(*iii*) in relation to the State Bank of Jaipur, the Bank of Jaipur, Limited;

(*iv*) in relation to the State Bank of Mysore, the Bank of Mysore, Limited;

(*v*) in relation to the State Bank of Patiala, the Bank of Patiala;

(*vi*) in relation to the State Bank of Travancore, the Travancore Bank, Limited;

(*c*) "corresponding new bank" means,—

(*i*) in relation to the Bank of Bikaner, Limited, the State Bank of Bikaner;

(*ii*) in relation to the Bank of Indore, Limited, the State Bank of Indore;

(*iii*) in relation to the Bank of Jaipur, Limited, the State Bank of Jaipur;

(*iv*) in relation to the Bank of Mysore, Limited, the State Bank of Mysore;

(*v*) in relation to the Bank of Patiala, the State Bank of Patiala;

(*vi*) in relation to the Travancore Bank, Limited, the State Bank of Travancore;

(*d*) "existing bank" means any of the following banks, namely:—

(*i*) Bank of Bikaner, Limited;

(*ii*) Bank of Indore, Limited;

(*iii*) Bank of Jaipur, Limited;

(*iv*) Bank of Mysore, Limited;

(*v*) Bank of Patiala;

(*vi*) Travancore Bank, Limited;

(*e*) "Hyderabad Bank" means the Hyderabad State Bank constituted under the Hyderabad State Bank Act, 1350F, and renamed the State Bank of Hyderabad under sub-section (*1*) of section 3 of the State Bank of Hyderabad Act, 1956;

79 of 1956.

(*f*) "new bank" means any of the banks constituted under section 3;

(*g*) "prescribed" means prescribed by regulations made under this Act;

(*h*) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934;

2 of 1934.

(*i*) "Saurashtra Bank" means the State Bank of Saurashtra constituted under the Saurashtra State Banks (Amalgamation) Ordinance, 1950;

10 of 1950.

(*j*) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955;

23 of 1955.

(*k*) "subsidiary bank" means any new bank and includes the Hyderabad Bank and the Saurashtra Bank;

(*l*) "Tribunal" means the Tribunal constituted under section 15.

CHAPTER II

CONSTITUTION OF NEW BANKS

Establishment of new banks.

3. With effect from such date as the Central Government, may, by notification in the Official Gazette, specify in this behalf, there shall be constituted the following new banks, namely:—

(*a*) the State Bank of Bikaner;

(*b*) the State Bank of Indore;

(*c*) the State Bank of Jaipur;

(*d*) the State Bank of Mysore;

(*e*) the State Bank of Patiala;

(*f*) the State Bank of Travancore;

and different dates may be specified for different new banks.

New banks to be bodies corporate.

4. (*1*) Every new bank shall be a body corporate with perpetual succession and a common seal and shall sue and be sued in its name.

(*2*) The body corporate constituting each of the new banks shall consist of the State Bank and other shareholders, if any, for the time being of the new bank.

(*3*) Every new bank shall carry on the business of banking and other business in accordance with the provisions of this Act, and shall have power to acquire and hold property, whether movable or immovable, for the purposes of its business and to dispose of the same.

Head office and branches of new banks.

5. (*1*) The head office of each of the new banks shall be at such place as the Central Government may, by notification in the Official Gazette, from time to time, specify.

(*2*) Every new bank shall maintain as its branches all branches of the corresponding bank in existence immediately before the appointed day, and shall not establish any new branch or discontinue any branch except in consultation with the State Bank and with the approval of the Reserve Bank.

Authorised capital of new banks.

6. (*1*) Subject to the provisions of this Act, the authorised capital of the State Bank of Mysore and the State Bank of Travancore shall be rupees two crores each, and the authorised capital of every other new bank shall be rupees one crore.

(*2*) The authorised capital of every new bank shall be divided into shares of one hundred rupees each.

(*3*) Notwithstanding anything contained in this section, the State Bank may, with the approval of the Reserve Bank, authorise a new bank to increase or reduce its authorised capital:

Provided that where the authorised capital is so increased, the shares issued shall be of the denomination specified in sub-section (*2*).

Issued capital of new banks.

7. (*1*) On the appointed day, the issued capital of a new bank shall consist of such amount, divided into fully paid-up shares of hundred rupees each, as the State Bank may, with the approval of the Reserve Bank, fix.

(*2*) All shares in the issued capital of a new bank shall, on the appointed day, stand allotted to the State Bank.

(*3*) The State Bank shall, as soon as may be, after the determination, if any, by the Tribunal, of the amount of compensation payable in respect of an existing bank, consider whether any increase in, or reduction of, the issued capital of the corresponding new bank as

fixed under sub-section (*1*), by way of adjustment, or transfer from, or to, the reserves of such bank, or in any other manner, is necessary or expedient and may, thereafter with the approval of the Reserve Bank, direct that bank to increase or reduce its issued capital.

(*4*) Without prejudice to the provisions contained in sub-section (*3*), a new bank may, with the approval of the State Bank and the Reserve Bank, increase from time to time, its issued capital and the capital so increased shall consist of fully paid-up shares to be issued in such manner as the State Bank may, with the approval of the Reserve Bank, direct.

(*5*) No increase or reduction in the issued capital of a new bank shall be made in such a manner that the State Bank holds at any time less than fifty-five per cent. of the issued capital of that bank.

Reserve fund of the new banks.

8. (*1*) Every new bank shall establish a reserve fund which, subject to the provisions of sub-section (*3*) of section 7 and of sub-section (*2*) of this section, shall—

(*a*) on the appointed day, consist of such sum as the State Bank, with the approval of the Reserve Bank, may determine; and

(*b*) after the appointed day, consist of the sum aforesaid together with such further sums as may be transferred to the reserve fund by the new bank out of its annual net profits before declaring a dividend.

(*2*) The State Bank shall, as soon as may be after the determination, if any, of the amount of compensation by the Tribunal, in respect of an existing bank, consider whether any increase in, or reduction of, the reserve fund of the corresponding new bank, by way of adjustment, by transfer from, or to, any account, or towards provision for bad and doubtful debts, depreciation of any assets or contingencies, or for any other purpose, is necessary, and may, thereafter, with the approval of the Reserve Bank, direct that bank to so increase or reduce its reserve fund.

Transfer of shares of existing banks to State Bank.

9. On the constitution of a new bank, all shares in the capital of the corresponding bank, where such corresponding bank has a share capital, shall stand transferred to, and shall vest in, the State Bank, free of all trusts, liabilities and encumbrances.

Transfer of undertaking of existing banks to new banks.

10. (*1*) Subject to the other provisions contained in this Act, when a new bank is constituted, the undertaking of the corresponding bank shall stand transferred to, and vest in, the new bank.

(2) The undertaking of the corresponding bank referred to in sub-section (1) shall be deemed to include all rights, powers, authorities and privileges and all property, movable and immovable, including cash balances, reserve funds, investments and all other interests and rights in, or arising out of, such property and all books, accounts and documents relating thereto as may be in the possession of that bank immediately before the appointed day, and shall also be deemed to include all debts, liabilities and obligations of whatever kind, then existing of that bank.

(3) Without prejudice to the other provisions contained in this Act, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature, subsisting or having effect immediately before the appointed day and to which any existing bank is a party, or which are in favour of that bank, shall be of full force and effect against or in favour of the corresponding new bank, as the case may be, and may be enforced or acted upon as fully and effectually as if instead of the existing bank the corresponding new bank had been a party thereto or as if they had been issued in favour of the corresponding new bank.

(4) If, on the appointed day, any suit, appeal or other legal proceeding of whatever nature by or against an existing bank is pending, the same shall not abate, be discontinued or be in any way prejudicially affected by reason of transfer to the corresponding new bank of the undertaking of the existing bank, or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the corresponding new bank.

Transfer of services of employees of existing banks.

11. (1) Save as otherwise provided in this Act, every employee of an existing bank in the employment of that bank immediately before the appointed day, shall, on and from that day, become an employee of the corresponding new bank and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, gratuity and other matters as he would have held the same on the appointed day, if the undertaking of the existing bank had not been transferred to and vested in the corresponding new bank, and shall continue to do so unless and until his employment in that bank is terminated or until his remuneration or other terms and conditions of service are revised or altered by the corresponding new bank under, or in pursuance of, any law, or in accordance with any provision which, for the time being, governs his service:

Provided that nothing contained in this sub-section shall apply to an employee of the Bank of Patiala who holds a civil post under the State of Punjab unless prior to the appointed day, he has intimated his consent to become an employee of the State Bank of Patiala by notice in writing, given to the Government of that State through the Bank of Patiala.

(2) Any person who, on the appointed day, is entitled to, or is in receipt of, a pension or other superannuation or compassionate allowance or other benefit from an existing bank or from any provident, pension or other fund or from any authority administering such fund, shall be entitled to be paid by, and to receive from, the corresponding new bank or any provident, pension or other fund or from any authority administering such fund, the same pension, allowance or benefit, so long as he observes the conditions on which the pension, allowance or benefit was granted, and if any question arises whether he has so observed such conditions, the question shall be determined by the State Bank and its decision thereon shall be final.

(3) For the persons who immediately before the appointed day are the trustees of, or the members of any authority administering, any fund constituted for the benefit of the employees of an existing bank, there shall be substituted as trustees or members such persons as the State Bank may, by general or special order, specify.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or any other law or in any agreement for the time being in force, the transfer from an existing bank of the services of any officer or employee of that bank to the corresponding new bank in terms of this section shall not entitle any such officer or employee, to any compensation to which he would, but for this provision, have been entitled under any such law or agreement, and no claim in respect of such compensation shall be entertained by any court, tribunal or other authority.

14 of 1947.

Special provisions for transfer of foreign assets.

12. (*1*) If, according to the laws of any country outside India, the provisions of this Act by themselves are not effective to transfer or vest any asset or liability situated in that country which forms part of the undertaking of an existing bank to, or in, the corresponding new bank, the affairs of the existing bank in relation to such asset or liability shall, on and from the appointed day, stand entrusted to the general manager for the time being of the corresponding new bank, and the general manager may exercise all powers and do all such acts and things as are exercised or done by the existing bank for the purpose of effectively winding up the affairs of that bank.

(2) The general manager of the corresponding new bank shall, in exercise of the powers conferred on him by sub-section (*1*), take all such steps as may be required by the laws of any such country outside India for the purpose of effecting such transfer or vesting, and in connection therewith the General Manager may either himself or through any person authorised by him in this behalf, realise any asset and discharge any liability of the existing bank and transfer the net proceeds thereof to the corresponding new bank.

(*3*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), on and from the appointed day, no person shall make any claim or demand or take any proceeding in India against any existing bank or any person acting in its name or on its behalf except in so far as may be necessary for enforcing the provisions of this section or except in so far as it relates to any offence committed by such person.

CHAPTER III

COMPENSATION

Compensation to shareholders of existing banks other than the Bank of Patiala.

13. (*1*) Every person who and any State Government which immediately before the appointed day is registered as a holder of shares in the books of an existing bank shall be given by the State Bank such compensation in respect of the transfer to the State Bank of the shares in the capital of that bank as is determined in accordance with the principles contained in the First Schedule.

(*2*) The amount of compensation to be given in accordance with the principles contained in the First Schedule shall be determined in the first instance by the State Bank, in consultation with the Reserve Bank, and shall be offered by it to all those to whom compensation is payable under sub-section (*1*) in full satisfaction thereof.

(*3*) If the amount of compensation offered by the State Bank in terms of sub-section (*2*) is not acceptable to any shareholder of an existing bank, such shareholder may, before such date as may be notified by the Central Government in the Official Gazette, request the Central Government, in writing, to have the matter referred to the Tribunal.

(*4*) If, before the date notified under sub-section (*3*), the Central Government receives requests, in terms of that sub-section, from not less than one-fourth in number of the shareholders, holding not less than one-fourth in value of the paid-up share capital of the existing bank, the Central Government shall have the matter referred to the Tribunal for decision.

(5) If, before the date notified under sub-section (3), the Central Government does not receive requests as provided in that sub-section, the amount of compensation offered by the State Bank, and where a reference has been made to the Tribunal, the amount determined by it, shall be the compensation payable under sub-section (1) and shall be final and binding on all parties concerned.

(6) Subject to the provisions of the succeeding sub-sections, the amount of compensation shall be paid,—

(a) if the shareholder has not applied for shares of the corresponding new bank in accordance with the provisions of sub-section (7), by a cheque drawn on the State Bank; and

(b) if he has applied for shares of the corresponding new bank in accordance with the provisions of that sub-section, in shares of the corresponding new bank to the extent of the value of such shares allotted to him and the balance by a cheque drawn on the State Bank.

(7) Any shareholder of an existing bank to whom compensation is payable under this section may, before the expiry of three months from the date of the final determination of the amount of such compensation under sub-section (5), or such extended period as the State Bank may think fit in any particular case to allow, apply to the State Bank for the transfer to him of shares in the capital of the corresponding new bank in lieu of such compensation or part thereof; and for the purposes of such transfer, the value of each share of the corresponding new bank shall be such as may be determined in this behalf by the State Bank with the approval of the Reserve Bank.

(8) On receipt of an application under sub-section (7), the State Bank shall issue to the corresponding new bank a warrant, in the form specified in the rules made under this Act, directing it to transfer in favour of the person specified in the warrant such number of shares as may be allotted to the applicant in accordance with sub-sections (9) and (10), out of the shares in the capital of that bank standing allotted to the State Bank under the provisions of this Act, and the corresponding new bank shall be bound to comply with such warrant.

(9) A shareholder of an existing bank who has applied for shares in the capital of the corresponding new bank shall be allotted—

(a) such number of shares, having such total face value as would bear to forty-five per cent. of the issued capital of the corresponding new bank the same proportion as the paid-up value of his shares in the capital of the existing bank in respect of which he is paid compensation bears to the total paid-up capital of that bank; and

(*b*) if the total number of shares allotted under clause (*a*) to all applicants is less than forty-five per cent. of the issued capital of the corresponding new bank, such number of additional shares as the State Bank may deem fit having regard to the provisions of this Act, the circumstances of the case and the desirability of securing as wide a distribution of shares among as large a number of shareholders as possible.

Explanation.—For the purpose of determining the number of shares under this sub-section fractions of a share shall be disregarded.

(*10*) Notwithstanding anything contained in sub-section (*9*), an allotment of shares under that sub-section shall not be made in such a manner that the State Bank holds at any time less than fifty-five per cent. of the issued capital of the corresponding new bank.

(*11*) A warrant issued by the State Bank under sub-section (*8*) shall not be liable to duty under the Indian Stamp Act, 1899. 2 of 1899.

(*12*) Nothing contained in this section shall affect the rights *inter se* between the holder of any share in an existing bank, and any other person who may have an interest in such share and such other person shall be entitled to enforce his interest against the compensation awarded to the holder of such share, but not against the State Bank.

(*13*) In this section, the expression "existing bank" does not include the Bank of Patiala, and the expression "corresponding new bank" does not include the State Bank of Patiala.

Compensation payable by the State Bank in respect of the Bank of Patiala, the Saurashtra Bank and the Hyderabad Bank.

14. (*1*) The State Government of Punjab in respect of the Bank of Patiala, the State Government of Bombay in respect of the Saurashtra Bank and the Reserve Bank in respect of the Hyderabad Bank, shall be given, by reason of the provisions of this Act or of the amendments contained in Part V or Part VII of the Third Schedule, such compensation by the State Bank as is determined in accordance with the principles contained in the First Schedule.

(*2*) The amount of compensation to be given in accordance with the principles contained in the First Schedule shall be determined in the first instance by the State Bank, and shall be offered by it to the State Government of Punjab, the State Government of Bombay, or the Reserve Bank, as the case may be, in full satisfaction of the compensation payable under sub-section (*1*):

Provided that in determining the amount of compensation to be offered to the State Government of Punjab or the State Government of Bombay, the State Bank shall consult the Reserve Bank.

(*3*) If the amount of compensation offered by the State Bank in terms of sub-section (*2*) is not acceptable to the State Government

of Punjab, the State Government of Bombay or the Reserve Bank, as the case may be, the State Government concerned or the Reserve Bank, may, before such date as may be notified by the Central Government in the Official Gazette, request the Central Government to have the matter referred to the Tribunal for decision, and where any such request is received, the Central Government shall refer the matter accordingly.

(4) If, before the date notified under sub-section (3), the State Government of Punjab, the State Government of Bombay or the Reserve Bank, as the case may be, has not made any such request, the amount of compensation offered by the State Bank, and where a reference has been made to the Tribunal, the amount determined by it, shall be the compensation payable under sub-section (1) and shall be final and binding on all parties concerned.

(5) The amount of compensation shall be paid by a cheque drawn on the Reserve Bank.

Constitution of the Tribunal.

15. (1) The Central Government may for the purposes of this Act constitute a Tribunal which shall consist of a chairman and two other members.

(2) The Chairman shall be a person who is, or has been, a Judge of a High Court or has been a Judge of the Supreme Court and of the two other members, one shall be a person, who, in the opinion of the Central Government, has had experience of commercial banking and the other shall be a person who is a chartered accountant within the meaning of the Chartered Accountants Act, 1949.

38 of 1949.

(3) If, for any reason, a vacancy occurs in the office of the Chairman or any other member of the Tribunal, the Central Government shall fill the vacancy by appointing another person thereto in accordance with the provisions of sub-section (2), and any proceeding may be continued before the Tribunal so re-constituted from the stage at which the vacancy occurred.

(4) The Tribunal may, for the purpose of determining any compensation payable under this Act, choose one or more persons having special knowledge or experience of any relevant matter to assist it in the determination of such compensation.

Tribunal to have powers of a civil court.

16. (1) The Tribunal shall have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

5 of 1908.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits; and

(*d*) issuing commissions for the examination of witnesses or documents.

(*2*) Notwithstanding anything contained in sub-section (*1*) or in any other law for the time being in force, the Tribunal shall not compel the Reserve Bank, the State Bank or any subsidiary bank—

(*a*) to produce any books of account or other documents which the Reserve Bank, the State Bank or the subsidiary bank claims to be of a confidential nature;

(*b*) to make any such books or documents part of the record of the proceedings before the Tribunal; or

(*c*) to give inspection of any such books or documents to any party before it or to any other person.

Procedure of the Tribunal.

17. (*1*) The Tribunal shall have power to regulate its own procedure.

(*2*) The Tribunal may hold the whole or any part of its enquiry *in camera*.

(*3*) Any clerical or arithmetical mistake in any order of the Tribunal or any error arising therein from any accidental slip or omission may at any time be corrected by the Tribunal either of its own motion or on the application of any of the parties.

CHAPTER IV

Shares of the Subsidiary Banks

Transferability of shares.

18. (*1*) Save as otherwise provided in sub section (*2*), the shares of a subsidiary bank shall be freely transferable.

(*2*) Nothing contained in sub-section (*1*) shall entitle the State Bank to transfer any shares held by it in any subsidiary bank if such transfer will result in reducing the shares held by it to less than fifty-five per cent. of the issued capital of that subsidiary bank.

Restriction on individual holdings.

19. (*1*) No person shall be registered as a shareholder in respect of any shares in a subsidiary bank held by him, whether in his own name or jointly with any other person, in excess of two hundred shares, or be entitled to payment of any dividend on the excess shares held by him, or to exercise any of the rights of a shareholder in respect of such excess shares otherwise than for the purpose of selling them:

Provided that nothing contained in this sub-section shall apply to—

(*a*) the State Bank;

(*b*) a State Government;

(*c*) a Corporation;

(*d*) an insurer as defined in the Insurance Act, 1938;

4 of 1938.

(*e*) a local authority;

(*f*) a co-operative society; *

(*g*) a trustee of a public or private religious or charitable trust;

(*h*) a shareholder of an existing Bank who is allotted any shares under sub-section (*9*) of section 13.

(2) Notwithstanding anything contained in sub-section (*1*), no person referred to in the proviso to that sub-section, other than the State Bank, shall be entitled to exercise voting rights in respect of any shares held by such person in excess of five per cent. of the issued capital of the subsidiary bank concerned.

Shares to be approved securities.

20. Notwithstanding anything contained in the Acts hereinafter mentioned in this section, the shares of a subsidiary bank shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882; and also to be approved securities for the purposes of the Insurance Act, 1938, and the Banking Companies Act, 1949.

2 of 1882.
4 of 1938.
10 of 1949.

Register of shareholders.

21. Every subsidiary bank shall keep at its head office a register, in one or more books, of the shareholders and shall enter therein the following particulars so far as they may be available:—

(*i*) the names, addresses and occupations, if any, of the shareholders and a statement of the shares held by each shareholder, distinguishing each share by its denoting number;

(*ii*) the date on which each person is so entered as a shareholder;

(*iii*) the date on which any person ceases to be a shareholder; and

(*iv*) such other particulars as may be prescribed.

Trust not to be entered on the register.

22. Notwithstanding anything contained in section 19, no notice of any trust, express, implied or constructive, shall be entered on the register of shareholders of a subsidiary bank or be receivable by it in respect of its shares.

CHAPTER V

MANAGEMENT OF SUBSIDIARY BANKS

Certain officers to vacate office.

23. Every person holding office as chairman, director, member of the Board of Management (including a member of a local or advisory committee), managing director, general manager, manager (other than manager of a branch), deputy managing director, deputy general manager,* assistant general manager or adviser, as the case may be, in an existing bank (other than the Bank of Patiala), the Hyderabad Bank and the Saurashtra Bank immediately before the appointed

day, shall be deemed to have vacated that office on the appointed day, and notwithstanding anything contained in this Act or in any other law for the time being in force or in any agreement or contract, such person shall not be entitled to any compensation for the loss of office or for the premature termination of any agreement or contract relating to his employment, except such pension, compensation or other benefit as the corresponding new bank, the Hyderabad Bank or the Saurashtra Bank, as the case may be, may with the approval of the State Bank, grant to him, having regard to what he would have received if this Act had not been passed and if his employment had ceased on the appointed day in the ordinary course:

Provided that nothing in this section shall be deemed to prevent any person who has so vacated his office in any of the said banks from being re-nominated or re-appointed to any office in a subsidiary bank in accordance with the provisions of this Act.

Management.

24. (*1*) The State Bank may, from time to time, give directions and instructions to a subsidiary bank in regard to any of its affairs and business, and that bank shall be bound to comply with the directions and instructions so given.

(*2*) Subject to any such directions and instructions, the general superintendence and conduct of the affairs and business of a subsidiary bank shall, as from the appointed day, vest in a Board of Directors who may, with the assistance of the general manager, exercise all powers and do all such acts and things as may be exercised or done by that bank.

(*3*) The Board of Directors of a subsidiary bank shall, in discharging its functions under this Act, act on business principles, regard being had to public interest.

Composition of the Board of Directors.

25. (*1*) Subject to the provisions of sub-section (*2*), the Board of Directors of a subsidiary bank shall consist of the following:—

(*a*) the chairman for the time being of the State Bank, *ex officio*;

(*b*) an officer of the Reserve Bank, to be nominated by that bank:

(*c*) not more than five directors to be nominated by the State Bank of whom not more than three shall be officers of that bank;*

(*d*) two directors to be elected in the prescribed manner by the shareholders, other than the State Bank:

Provided that if the total amount of the holdings of all such shareholders registered in the books of the subsidiary bank three months before the date fixed for election is below five per cent.

of the total issued capital, or if there are no shareholders other than the State Bank registered on the books of the subsidiary bank, the directors to be elected by the shareholders shall be nominated by the State Bank and such directors shall, for the purposes of this Act, be deemed to be directors elected under this clause;

(*e*) a director, if any, to be nominated by the Central Government in consultation with the State Bank.

(*2*) Notwithstanding anything contained in clause (*d*) of sub-section (*1*), on the first constitution of the Board of Directors, the directors referred to in the said clause shall be appointed by the State Bank and the directors so appointed shall, for the purposes of this Act, be deemed to have been elected within the meaning of the said clause.

(*3*) If, for any reason, a director of a subsidiary bank nominated under clause (*b*) of sub-section (*1*) is unable to exercise his functions or to discharge his duties as such director, the Reserve Bank may nominate any of its officers to exercise all the functions and to discharge all the duties of such director whenever he is so unable to exercise his functions or discharge his duties, and the officer so nominated shall for all purposes of this Act be deemed to be a director of the subsidiary bank.

(*4*) An officer of the Reserve Bank or the State Bank may be nominated as a director of a subsidiary bank by virtue of his office.

(*5*) The directors nominated under sub-section (*2*) shall retire at the expiry of one year after the appointed day.

(*6*) Any nomination or appointment of a director made by the State Bank under this Act shall, except in so far as it relates to an officer of that bank, be in consultation with the Reserve Bank.

Term of office of directors.

26. (*1*) A director of a subsidiary bank, if nominated under clause (*b*) of sub-section (*1*) of section 25 or if an officer of the State Bank and nominated under clause (*c*) or if an officer of the Central Government and nominated under clause (*e*) of that sub-section, shall hold office during the pleasure of the authority nominating him.

(*2*) Subject to the provisions contained in section 25, a director nominated under clause (*c*) of sub-section (*1*) of that section and not being an officer of the State Bank,* a director elected under clause (*d*) and a director, not being an officer of the Central Government, nominated under clause (*e*), of that sub-section, shall hold office for three years and thereafter until his successor is duly nominated or elected, as the case may be.

(*3*) A director of a subsidiary bank vacating his office shall be eligible for re-nomination or re-election, as the case may be.

Disqualification for directorship.

27. (1) A person shall be disqualified to be a director of a subsidiary bank, if—

(a) he holds the office of director, provisional director, promoter, agent, or manager of any banking company or a banking company for the formation of which a prospectus has been issued; or

(b) he is a salaried officer of Government; or

(c) he has been removed or dismissed from the service of Government or a local authority or a corporation or a company in which not less than fifty-one per cent. of the paid-up share capital is held by Government; or

(d) he holds any office of profit under the subsidiary bank; or

(e) he is, or at any time has been, adjudicated an insolvent or has suspended payment of his debts or has compounded with his creditors; or

(f) he is of unsound mind and stands so declared by a competent court; or

(g) he is, or has been, convicted of any offence which, in the opinion of the Central Government, involves moral turpitude; or

(h) in the case of an elected director, he is not registered as a holder * * * of unencumbered shares in the subsidiary bank of a nominal value of at least one thousand rupees:

Provided that the disqualification mentioned in clause (b) shall not apply to an officer of the Central Government nominated as a director under clause (e) of sub-section (1) of section 25:

Provided further that in the case of a director deemed to have been elected on the first constitution of the Board of Directors, the disqualification mentioned in clause (h) shall not operate for a period of six months from his becoming such director.

(2) No two persons who are partners of the same firm or are directors of the same private company or one of whom is an agent of the other or holds a power of attorney from a firm of which the other is a partner may be directors of a subsidiary bank at the same time.

(3) The nomination or election, as a director of any person who is a member of either House of Parliament or the Legislature of a State shall be void unless within two months of the date of nomination or election as such director, he ceases to be a member of Parliament or the Legislature of the State, and if any director is elected or nominated as a member of Parliament or the Legislature of a State, he shall cease to be a director as from the date of such election or nomination, as the case may be.

(4) Nothing contained in clause (*d*) of sub-section (*1*) shall be deemed to preclude any person from being a director of a subsidiary bank by reason only of his being a legal or technical adviser of that bank.

(5) In this section,—

(*a*) "banking company" has the same meaning as in the Banking Companies Act, 1949;

10 of 1949.

(*b*) "manager" means the chief executive officer, by whatever name called, of a banking company;

(*c*) "private company" has the same meaning as in the Companies Act, 1956.

1 of 1956.

Vacation of office of directors.

28. If a director of a subsidiary bank—

(*a*) is, or has become, subject to any of the disqualifications mentioned in section 27; or

(*b*) resigns his office by giving notice in writing under his hand, in the case of a nominated director to the State Bank, and in the case of an elected director to the Board of Directors of the subsidiary bank, and his resignation is accepted; or

(*c*) is absent without leave of the Board of Directors for more than three consecutive meetings thereof;

his seat on the Board of Directors shall thereupon become vacant:

Provided that nothing in clause (*b*) or clause (*c*) shall apply to a director referred to in clause (*b*) of sub-section (*1*) of section 25 or to a director, being an officer of the State Bank, nominated under clause (*c*) or to a director, being an officer of the Central Government nominated under clause (*e*) of that sub-section.

General Manager.

29. (*1*) The State Bank shall, after consulting the Board of Directors of a subsidiary bank, and with the approval of the Reserve Bank, appoint a general manager for that subsidiary bank:

Provided that in the case of the first appointment of the general manager on such consultation with the Board of Directors of the subsidiary bank shall be necessary.

(2) Subject to the general control of the Board of Directors, the day to day administration and management of the affairs of a subsidiary bank shall vest in the general manager, and the general manager shall exercise such other powers and perform such other duties as may be delegated to him by the Board of Directors.

(3) The general manager of a subsidiary bank—

(*a*) shall devote his whole time to the affairs of that bank:

Provided that the general manager of the subsidiary bank may, with the approval of the State Bank and the Reserve Bank, be a director of any other institution;

(*b*) shall hold office for such term not exceeding four years and subject to such conditions as the State Bank may, with the approval of the Reserve Bank, specify at the time of his appointment;

(*c*) shall receive such salary and allowances as may be determined by the State Bank with the approval of the Reserve Bank.

(*4*) The general manager vacating his office shall be eligible for re-appointment.

(*5*) The State Bank may, with the approval of the Reserve Bank, for any sufficient reason, remove from office the general manager of a subsidiary bank:

Provided that no such general manager shall be removed from office unless he has been given an opportunity of showing cause against such removal.

Remuneration of directors.

30. A director of a subsidiary bank shall be paid for attending the meetings of the Board of Directors or of any of its committees and for attending to any other business of the subsidiary bank such fees and allowances as may be prescribed:

Provided that no fees shall be payable to the chairman of the State Bank or any other director who is a wholetime officer of the Central Government or the Reserve Bank or the State Bank.

Removal from office of director.

31. (*1*) The State Bank may, with the approval of the Reserve Bank, for any sufficient reason, remove from office a director nominated under clause (*c*) of sub-section (*1*) of section 25 and not being an officer of the State Bank.

(*2*) The Central Government may, in consultation with the State Bank, for any sufficient reason, remove from office a director nominated under clause (*e*) of sub-section (*1*) of section 25 and not being an officer of the Central Government.

(*3*) Any director elected under clause (*d*) of sub-section (*1*) of section 25, may be removed from office—

(*a*) by the State Bank, with the approval of the Reserve Bank, if at the time of the removal there are no shareholders other than the State Bank registered in the books of the subsidiary bank concerned;

(*b*) by a resolution passed by a majority of the votes of such shareholders holding in the aggregate not less than one-half of the share capital held by all such shareholders:

Provided that if the total amount of the holdings of all shareholders, other than the State Bank, registered in the books of the subsidiary bank, on the date of the resolution, is below five per cent., of the total issued capital, the resolution shall not have effect unless confirmed by the State Bank.

(*4*) No director shall be removed from office under sub-section (*1*) or sub-section (*2*) unless he has been given an opportunity of showing cause against such removal.

Appointment of another person for discharging the duties of general manager during his absence.

32. If the general manager of a subsidiary bank is rendered incapable of discharging his duties by reason of infirmity or otherwise or is absent on leave or otherwise in circumstances not involving the vacation of his office, the State Bank may appoint another person to officiate for the general manager until the date on which the general manager resumes duty.

Casual vacancies among directors.

33. (*1*) Where any vacancy occurs before the expiry of the term of office of a director of a subsidiary bank, the vacancy shall be filled—

(*a*) in the case of a director nominated under clause (*c*) of sub-section (*1*) of section 25, not being an officer of the State Bank, by nomination by the State Bank;*

(*b*) in the case of a director elected under clause (*d*) of sub-section (*1*) of section 25, by election or where the proviso to that clause is applicable, by nomination by the State Bank:

Provided that where the duration of the vacancy in the office of an elected director is likely to be less than six months, the vacancy may be filled by the remaining directors by co-opting a person from amongst the shareholders entitled to elect a director under clause (*d*) of sub-section (*1*) of section 25 who is not disqualified under section 27;

(*c*) in the case of a director nominated under clause (*e*) of sub-section (*1*) of section 25, not being an officer of the Central Government, by nomination by that Government in consultation with the State Bank.

(*2*) A person nominated or elected or co-opted, as the case may be, under this section shall hold office for the unexpired portion of the term of his predecessor.

Meetings of the Board re

34. (*1*) The Board of Directors of a subsidiary bank shall meet at such time and place and shall observe such rules of procedure

in regard to the transaction of business at its meetings as may be prescribed.

(2) The chairman of the State Bank shall preside at every meeting of the Board of Directors of a subsidiary bank and, in his absence such one of the directors * * * * * * as may generally or in relation to any particular meeting be authorised by the chairman in this behalf shall preside; and in the absence of the chairman and also failing such authorisation, the directors of the subsidiary bank present at the meeting shall elect one from among themselves to preside at the meeting.

Explanation.—For the purposes of this sub-section, "absence from a meeting" means non-attendance for any reason whatsoever at the meeting or any part of the meeting during which any business is transacted.

(3) All questions at a meeting of the Board of Directors of a subsidiary bank shall be decided by a majority of the votes of the directors present, and in case of equality of votes, the person presiding at the meeting shall have a second or casting vote.

(4) Where any of the directors specified in clauses (*a*) and (*b*) of sub-section (*1*) of section 25 or any of the directors, being an officer of the State Bank specified in clause (*c*) of that sub-section is unable to attend any meeting of the Board of Directors of a subsidiary bank, and the State Bank or any other such director as may be present at the meeting considers that the State Bank would not be adequately or effectively represented at such meeting by reason of the absence of any such director, the State Bank or the director present may give notice in writing to that subsidiary bank—

(*i*) that the meeting should be adjourned to such date as may be indicated in the notice; or

(*ii*) that any matter, action, step or proceeding proposed to be considered, taken or carried out at that meeting, should not be so considered, taken or carried out; or

(*iii*) that no decision should be taken at that meeting on any such matter, action, step or proceeding;

and that subsidiary bank and its Board of Directors shall be bound to comply with such notice and act accordingly.

(5) A director of a subsidiary bank who is directly or indirectly concerned or interested in any contract, loan, arrangement or proposal, entered into or proposed to be entered into or made by or on behalf of the subsidiary bank shall, at the earliest possible opportunity, disclose the nature of his interest to the Board of Directors of that bank; and any such director shall not be present at any meeting of the Board of Directors when any such contract, loan, arrange-

ment or proposal is discussed, unless his presence is required by the other directors for the purpose of eliciting information and where any director is so required to be present, he shall not vote on any such contract, loan, arrangement or proposal:

Provided that nothing contained in this sub-section shall apply to such director by reason only of his being a shareholder (other than a director) holding not more than two per cent. of the paid-up capital in any public company as defined in the Companies Act, 1956, with which the subsidiary bank has entered into or proposes to enter into a contract or other arrangement.

1 of 1956.

(6) A copy of the minutes of every meeting of the Board of Directors of a subsidiary bank, together with copies of all connected papers, shall be forwarded to the State Bank and the Reserve Bank as soon as possible.

Executive committee and other committees.

35. (1) There shall be an executive committee in respect of a subsidiary bank consisting of such directors as may be prescribed:

Provided that if any such director being an officer of the State Bank and nominated by that bank under clause (c) of sub-section (1) of section 25, is for any reason unable to exercise his functions or to discharge his duties in relation to the executive committee, the State Bank may depute any of its officers to exercise all the functions and to discharge all the duties of such director in relation to the executive committee whenever such director is so unable to exercise his functions or discharge his duties; and the officer so deputed shall, for all purposes of this Act, in so far as it applies to the executive committee, be deemed to be a director of the subsidiary bank.

(2) Subject to any regulations made under this Act, the executive committee may deal with any matter within the competence of the Board of Directors.

(3) A copy of the minutes of every meeting of the executive committee of a subsidiary bank shall be forwarded to the State Bank and be laid before the Board of Directors of the subsidiary bank as soon as possible after the meeting.

(4) Without prejudice to the powers of the executive committee, and subject to any regulations made under this Act, the Board of Directors of a subsidiary bank may constitute such and so many other committees, whether consisting wholly of the directors or wholly of other persons, or partly of the directors and partly of other persons, as it deems fit, to exercise such powers and perform such duties as may, subject to such conditions, if any, as the Board of Directors may impose, be delegated to them by the Board of Directors.

CHAPTER VI

BUSINESS OF SUBSIDIARY BANKS

Subsidiary bank to act as agent of the State Bank.

36. (*1*) A subsidiary bank shall, if so required by the State Bank, act as agent of the State Bank at any place in India for—

(*a*) paying, receiving, collecting and remitting money, bullion and securities on behalf of any Government in India; and

(*b*) undertaking and transacting any other business which the Reserve Bank may, from time to time, entrust to the State Bank.

(*2*) The terms and conditions on which any such agency business shall be carried on by the subsidiary bank on behalf of the State Bank shall be such as may be determined by the State Bank, after consultation with the subsidiary bank and with the approval of the Reserve Bank.

(*3*) Until an arrangement is made by the State Bank with the Hyderabad Bank or the State Bank of Mysore, as the case may be, under this section, or until the expiry of a period of six months from the appointed day (which period may from time to time be extended by the Reserve Bank) whichever is earlier, the Hyderabad Bank and the State Bank of Mysore may respectively act as agent of the Reserve Bank, at the same places where and for the same purposes for which, and on the same terms and conditions on which, the Hyderabad Bank or the Bank of Mysore Limited, as the case may be, was acting as agent of the Reserve Bank immediately before the appointed day or with the previous approval of the Central Government at any other place or for any purpose.

(*4*) Until an arrangement is made by the State Bank with the State Bank of Bikaner, the State Bank of Jaipur, the Saurashtra Bank or the State Bank of Travancore, as the case may be, under this section or until the expiry of a period of six months from the appointed day (which period may from time to time be extended by the Reserve Bank) whichever is earlier, the State Bank of Bikaner, the State Bank of Jaipur, the Saurashtra Bank or the State Bank of Travancore may act as agent of the State Government of Rajasthan or the State Government of Bombay or the State Government of Kerala as the case may be, at the same places where and for the same purposes for which, and on the same terms and conditions on which, the Bank of Bikaner, Limited, or the Bank of Jaipur, Limited, or the Saurashtra Bank, or the Travancore Bank, Limited, as the case may be, was acting as agent for the State Government immediately before the appointed day or with the previous approval of the Central Government at any other place or for any purpose.

Other business which a subsidiary bank may transact.

37. (*1*) Subject to the other provisions contained in this Act, a subsidiary bank may carry on and transact the business of banking as defined in clause (*b*) of sub-section (*1*) of section 5 of the Banking Companies Act, 1949, and may engage in such one or more of the other forms of business, as are specified in sub-section (*1*) of section 6 of that Act.

19 of 1949.

(*2*) The Central Government may, after consultation with the Reserve Bank and the State Bank, by order in writing—

(*a*) authorise a subsidiary bank to do such other forms of business as the Central Government may consider necessary or expedient;

(*b*) direct that any form of business as is mentioned in the order, shall be carried on subject to such restrictions, conditions and safeguards as may be specified therein; or

(*c*) prohibit a subsidiary bank from carrying on or transacting any form of business which, but for this clause, it is lawful for the subsidiary bank to engage in.

(*3*) Save as otherwise provided in sub-section (*2*), a subsidiary bank shall not engage in any form of business other than that referred to in sub-section (*1*).

Acquisition of business of other banks.

38. (*1*) A subsidiary bank may, with the approval of the State Bank, and shall, if the Reserve Bank, in consultation with the State Bank, so directs, enter into negotiations for acquiring the business, including the assets and liabilities of any other banking institution.

(*2*) The terms and conditions relating to such acquisition, if agreed upon by the Board of Directors of the subsidiary bank concerned and the directorate or management of the banking institution concerned and approved by the Reserve Bank, shall be submitted to the Central Government for its sanction and that Government may by order in writing (hereafter in this section referred to as the order of sanction) accord its sanction thereto.

(*3*) Notwithstanding anything contained in this Act or any other law for the time being in force or any instrument regulating the constitution of the banking institution concerned, the terms and conditions as sanctioned by the Central Government shall come into effect on the date specified by the Central Government in this behalf in the order of sanction and be binding upon the subsidiary bank and the banking institution concerned as well as upon the shareholders (or, as the case may be, proprietors) and creditors of that banking institution.

(4) If for any reason the terms and conditions cannot come into effect on the date specified in the order of sanction, the Central Government may fix another suitable date for that purpose.

(5) On the date on which the terms and conditions as aforesaid come into effect, the business and the assets and liabilities of the banking institution concerned as covered by the acquisition shall, by virtue, and in accordance with the provisions, of the order of sanction stand transferred to, and become respectively the business and the assets and liabilities of, the subsidiary bank concerned.

(6) The consideration for the acquisition of the business and the assets and liabilities of any banking institution under this section may, if so agreed upon, be paid either in cash or by allotment of shares in the capital of the subsidiary bank concerned or partly in cash and partly by allotment of shares, and the subsidiary bank may, for the purpose of any such allotment, increase, subject to the other provisions contained in this Act relating to the increase of capital, the capital of the subsidiary bank by the issue of such number of shares as may be determined by the subsidiary bank.

(7) Any business acquired under this section shall thereafter be carried on by the subsidiary bank in accordance with the provisions of this Act subject to such exemptions or modifications as the Central Government may, by notification in the Official Gazette, make in this behalf in consultation with the Reserve Bank:

Provided that no such exemption or modification shall be made so as to have effect for a period of more than seven years from the date of acquisition.

(8) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law or in any agreement for the time being in force, on the acquisition of the business and the assets and liabilities of any banking institution under this section, no officer or other employee of that banking institution shall be entitled to any compensation to which he may be entitled under that Act or that other law or that agreement, and no claim in respect of such compensation shall be entertained by any court, tribunal or other authority if on his having accepted in writing an offer of employment by the subsidiary bank concerned on the terms and conditions proposed by it he has been employed in accordance with such terms and conditions. 14 of 1947

(9) The Central Government may, if it considers necessary or expedient in the case of any banking institution in relation to which an order of sanction has been made under this section, appoint, whether before or after the coming into effect of the terms and conditions relating to the business and the assets and liabilities of that

banking institution, a suitable person to take over the management of that banking institution for the purposes of winding up its affairs and distributing its assets, and the expenditure incurred in connection with such management (including the remuneration of the person so appointed and his staff, if any) shall be paid out of the assets of the banking institution or by the subsidiary bank concerned as the Central Government may direct.

(*10*) Simultaneously with the appointment of a suitable person under sub-section (*9*) or immediately thereafter, the Central Government shall issue directions to be followed by that person in the management of that banking institution for the purposes aforesaid and thereupon—

1 of 1956. 10 of 1949.

(*a*) the provisions of the Companies Act, 1956, or the Banking Companies Act, 1949, or any other law for the time being in force or any instrument having effect by virtue of any such Act or law, in so far as they are inconsistent with such directions, shall cease to apply to, or in relation to, that banking institution;

(*b*) all persons in charge of the management, including any person holding office as manager or director, of the banking institution, immediately before the issue of such directions, shall be deemed to have vacated their offices as such; and

(*c*) the person appointed to take over the management of the banking institution shall, in accordance with those directions, take all such steps as may be necessary to facilitate the winding up of its affairs and the distribution of its assets.

(*11*) The Central Government, when satisfied that nothing further remains to be done in order to wind up the affairs of the banking institution concerned, may, by order in writing, direct that as from such date as may be specified therein, the banking institution shall stand dissolved and thereupon any such direction shall have effect notwithstanding anything to the contrary contained in any other law.

(*12*) No action under this section shall be questioned on the ground merely of any defect in the constitution of any banking institution in relation to which such action has been taken or in the constitution of its Board of Directors or in the appointment of any person entrusted with the management of its affairs.

(*13*) The provisions of this section shall apply in relation to the acquisition by one subsidiary bank of the business, including the assets and liabilities, of another subsidiary bank as they apply in relation to the acquisition by a subsidiary bank of the business, including the assets and liabilities, of any other banking institution.

(*14*) In this section, "banking institution" includes any individual or any association of individuals (whether incorporated or not, or whether a department of Government or a separate institution), carrying on the business of banking.

CHAPTER VII

ACCOUNTS AND AUDIT

Closing of annual accounts.

39. A subsidiary bank shall cause its books to be closed and balanced on the thirty-first day of December in each year.

Disposal of profits.

40. (*1*) After making provision for bad and doubtful debts, depreciation in assets, equalisation of dividends, contribution to staff and superannuation funds and for all other matters for which provision is necessary by or under this Act or which are usually provided for by banking companies, a subsidiary bank may, out of its net profits, declare a dividend.

(*2*) The rate of dividend shall be determined by the Board of Directors of the subsidiary bank concerned.

(*3*) Nothing in this section shall be deemed to preclude the payment of interim dividends in such manner and to such extent as may be prescribed.

Audit.

41. (*1*) Subject to the provisions of section 42, the accounts of a subsidiary bank shall be audited by an auditor duly qualified to act as an auditor of companies under sub-section (*1*) of section 226 of the Companies Act, 1956, who shall be appointed by the State Bank, with the approval of the Reserve Bank. 1 of 1956

(*2*) The auditor shall receive such remuneration as the State Bank may fix.

(*3*) No director or officer of a subsidiary bank shall be eligible to be its auditor during his continuance in office as such director or officer.

(*4*) The auditor shall be supplied with a copy of the annual balance sheet and profit and loss account, and a list of all books kept by the subsidiary bank, and it shall be the duty of the auditor to examine the balance sheet and profit and loss account with the accounts and vouchers relating thereto, and in the performance of his duties, the auditor—

(*a*) shall have, at all reasonable times, access to the books, accounts and other documents of that subsidiary bank;

(*b*) may, at the expense of that subsidiary bank, employ accountants and other persons to assist him in investigating such accounts; and

(*c*) may, in relation to such accounts, examine any director or any officer of that subsidiary bank.

(*5*) The auditor shall hold office for such term not exceeding one year as the State Bank may fix at the time of his appointment; and if any vacancy arises before the expiry of the term of an auditor, the vacancy may be filled by the State Bank, with the approval of the Reserve Bank.

(*6*) The auditor shall on relinquishing office be eligible for re-appointment.

(7) The auditor shall make a report to the State Bank upon the annual balance sheet and accounts of the subsidiary bank, and, in every such report, he shall state—

(*a*) whether, in his opinion, the balance sheet is a full and fair balance sheet containing all the necessary particulars and is properly drawn up so as to exhibit a true and correct view of the affairs of that subsidiary bank, and in case he has called for any explanation or information, whether it has been given and whether it is satisfactory;

(*b*) whether or not the transactions of that subsidiary bank which have come to his notice have been within the competence of the bank;

(*c*) whether or not the returns received from the offices and branches of that subsidiary bank have been found adequate for the purpose of his audit;

(*d*) whether the profit and loss account shows a true balance of profit or loss for the period covered by such account; and

(*e*) any other matter which he considers should be brought to the notice of the State Bank.

(*8*) The auditor shall forward a copy of the audit report to the subsidiary bank and to the Central Government.

(*9*) **Without prejudice to the foregoing provisions, the Central Government may, at any time, appoint such number of auditors as it thinks fit to examine and report on the accounts of a subsidiary bank, and the auditors so appointed shall have all the rights, privileges and authority in relation to the audit of the accounts of the subsidiary bank which an auditor appointed by the State Bank has under this section.**

Temporary provision regarding existing auditors.

42. If, on the appointed day, any appointment of an auditor made by, or in respect of, an existing bank, the Hyderabad Bank or the Saurashtra Bank, as the case may be, is subsisting, the State Bank may, on or after such day, either confirm the appointment in accordance with the provisions of this Act, subject to such modifications of the terms and conditions of the appointment, as it may deem necessary, or terminate the appointment; and may, if it so terminates the appointment, fix such remuneration as appears to it to be reasonable having regard to the work already done, functions discharged, or duties performed by the auditor concerned.

Returns to be furnished by a subsidiary bank.

43. (*1*) A subsidiary bank shall furnish to the State Bank and the Reserve Bank—

(*a*) within three months from the date on which its accounts are closed and balanced, its balance sheet, together with the profit and loss account and the auditor's report, and a report by the Board of Directors on the working of the subsidiary bank during the period covered by the accounts; and

(*b*) any other information relating to the affairs and business of the subsidiary bank which the State Bank or the Reserve Bank may require.

(*2*) The balance sheet and the profit and loss account of a subsidiary bank shall be signed by the general manager and a majority of the directors of the subsidiary bank.

General meetings.

44. (*1*) A general meeting (hereinafter referred to as an annual general meeting) of a subsidiary bank shall be held annually before the end of March at the place where the head office of the subsidiary bank is situate, and any other general meeting may be convened by the Board of Directors at any time.

(*2*) The shareholders present at an annual general meeting shall be entitled to discuss the balance sheet and profit and loss account of the bank concerned, made up to the previous 31st day of December, the report of the Board of Directors on the working of that bank for the period covered by the accounts and the auditors' report on the balance sheet and accounts.

(3) Nothing contained in this section relating to an annual general meeting shall apply in relation to a subsidiary bank if, as on the previous 31st day of December, all the shares in the issued capital of that bank are held by the State Bank.

CHAPTER VIII

MISCELLANEOUS

Power to issue directions for removing difficulties.

45. For the purpose of facilitating the full and effective transfer of the undertaking of an existing bank in accordance with the provisions of this Act, or in order to remove any difficulty which in the opinion of the Central Government has arisen or is likely to arise in connection with such transfer, the Central Government may, in consultation with the Reserve Bank, give such directions to any existing bank or the State Bank as appear to it to be necessary and the said bank or the State Bank, as the case may be, shall comply with such directions.

Observers for existing banks and the Saurashtra Bank.

46. (*1*) The State Bank may, in relation to any existing bank or the Saurashtra Bank, at any time before the appointed day,—

(*a*) depute one or more persons to watch the proceedings at any meeting of the Board of Directors, any committee or other body of the bank; require the bank to give an opportunity to the person or persons so deputed to be heard at such meetings and also require such person or persons to send a report of such proceedings to the State Bank;

(*b*) require the Board of Directors, any committee or other body of the bank to give in writing to any person specified by the State Bank in this behalf, at his usual address, all notices of, and other communications relating to, any meeting of the Board, committee or other body, as the case may be;

(*c*) appoint one or more persons to observe the manner in which the affairs of the bank or of its offices or branches are being conducted and make a report thereon; and

(*d*) require the bank to furnish the State Bank, within such time as may be specified by the State Bank, with any statement or information relating to the business or affairs of the bank, including copies of the proceedings of any meeting of the Board of Directors, any committee or other body, of the bank.

(*2*) If a person deputed by the State Bank to watch the proceedings of any meeting of the Board of Directors, any committee or other body, as the case may be, gives notice in writing to the bank that such person considers that any action, step or proceeding proposed to be taken or carried out by the bank will be detrimental to

the State Bank or to the bank itself, such action, step or proceeding shall not be taken or carried out by the bank unless and until the State Bank approves in writing of such action, step or proceeding.

Explanation.—For the purposes of this section, "Board of Directors" in relation to the Saurashtra Bank, means its Board of Management.

Inspection.

47. (*1*) Without prejudice to the other provisions contained in this Act, the State Bank may, at any time, cause an inspection to be made by one or more of its officers of any existing bank, a new bank, the Hyderabad Bank or the Saurashtra Bank.

(*2*) It shall be the duty of every person who is, or has, at any time, been a director, officer or other employee of a bank which is inspected under sub-section (*1*), to produce to any officer making the inspection, all such balances, books, accounts, securities and other documents in his custody or power and to furnish the said officer with any statements and information relating to the affairs of the bank as the said officer may require of him within such time as the said officer may specify.

(*3*) If any person—

(*a*) fails, within the stipulated time, to produce any balance, book, account, security or other document or to furnish any statement or information which under sub-section (*2*) it is his duty to produce or furnish, or to answer any question relating to the business of the bank under inspection which is asked by an officer making the inspection, or

(*b*) in any document or information required or furnished or while answering any question put to him, wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement,

he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

Cost of development programme.

48. (*1*) A subsidiary bank may accept any subsidies offered by the State Bank to meet—

(*a*) the cost of the whole or any part of any specific programme of development undertaken by that subsidiary bank with the approval of the State Bank; and

(*b*) such losses or expenditure as may be approved by the State Bank, with the consent of the Reserve Bank.

11 of 1922.

(2) For the purposes of the Indian Income-tax Act, 1922, any subsidy received by a subsidiary bank under sub-section (1) shall not be treated as income, profits or gains of the subsidiary bank.

Special provision regarding existing officers and employees.

49. (1) Notwithstanding anything contained in any of the other provisions of this Act, or in any other law or in any contract of service or other document, no appointment made or promotion, increment in salary, pension or allowance or any other benefit granted to any person by an existing bank or the Saurashtra Bank after the 10th day of February, 1958, and before the appointed day, which would not ordinarily have been made or granted or which would not ordinarily have been admissible under the rules or authorisations of the said banks or of any provident, pension or other fund in force before the 10th day of February, 1958, shall have effect or be payable or claimable from the subsidiary bank concerned, or from any provident, pension or other fund, or from any authority administering any such fund, unless the State Bank has, with the approval of the Reserve Bank, by a general or special order, confirmed the appointment, promotion or increment or has directed the grant of the pension, allowance or other benefit, as the case may be.

(2) Where any officer or other employee of an existing bank or of the Saurashtra Bank has received any amount by reason of such appointment, promotion or increment or any such pension, allowance or other benefit as is referred to in sub-section (1), which has not been confirmed or sanctioned by the State Bank under that sub-section, such officer or other employee shall be bound to refund such amount to the subsidiary bank concerned, and that bank shall be entitled to take all such steps as may be necessary for recovering such amount.

(3) Where any managing director, general manager or manager, deputy managing director or deputy general manager or other employee of an existing bank or the Saurashtra Bank has, after the 10th day of February, 1958, and before the appointed day, been paid any sum by way of compensation or gratuity, the subsidiary bank concerned shall be entitled to claim a refund of any sum so paid if the payment is not confirmed by the State Bank by a general or special order.

(4) Nothing in this section shall apply to, or in relation to, any officer or other employee of the Bank of Patiala, who does not become an officer or other employee of the State Bank of Patiala under the provisions of section 11.

Staff of a subsidiary bank.

50. (1) A subsidiary bank may, subject to such limitations and conditions as may be prescribed, appoint such number of officers,

advisers and employees as it considers necessary or desirable, for the efficient performance of its functions and on such terms and conditions as it may deem fit.

(2) For the removal of doubts, it is hereby declared that the officers, advisers and employees of a subsidiary bank, in whatever capacity engaged, shall not be deemed to be officers, advisers or employees of the State Bank for any purpose, unless otherwise provided in the contract or agreement of service of any such officer, adviser or employee.

Establishment of pension and superannuation funds by subsidiary banks.

51. Notwithstanding anything to the contrary contained in any other law for the time being in force, a subsidiary bank may establish and maintain superannuation, pension, provident or other funds for the benefit of its officers or employees or the dependants of such officers or employees or for the purposes of the subsidiary bank, and grant superannuation allowances, annuities and pensions payable out of any such fund.

Obligation as to fidelity and secrecy.

52. (*1*) A subsidiary bank shall observe, except as otherwise required by law, the practices and usages customary among bankers, and in particular, it shall not divulge any information relating to, or to the affairs of, its constituents except in circumstances in which it is, in accordance with the law or practice and usage customary among bankers, necessary or appropriate for that bank to divulge such information.

(2) Every director, auditor, adviser, officer or other employee of a subsidiary bank shall, before entering upon his duties, make a declaration of fidelity and secrecy as in the form set out in the Second Schedule:

Provided that any declaration made under sub-section (*2*) of section 35 of the State Bank of Hyderabad Act shall be deemed to be a declaration made to the Hyderabad Bank under this sub-section.

Indemnity of directors.

53. (*1*) Every director of a subsidiary bank shall be indemnified by that bank against all losses and expenses incurred by him in, or in relation to, the discharge of his duties except such as are caused by his own wilful act or default.

(2) A director of a subsidiary bank shall not be responsible for any loss or expense caused to the bank by the insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of the bank or by the insolvency or wrongful act of any customer or debtor or by anything done in, or in relation to, the execution of the duties of his office or otherwise than for his wilful act or default.

54. (*1*) No act or proceeding of the Board of Directors of a subsidiary bank shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board. Defects in appointment or constitution not to invalidate acts or proceedings.

(*2*) All acts done by any person acting in good faith as a director of a subsidiary bank shall, notwithstanding that he was disqualified to be a director or that there was any other defect in his appointment, be deemed to be valid.

55. Subject to the provisions of this Act and unless the Central Government, by notification in the Official Gazette, otherwise directs, on and from the appointed day, the provisions of the Companies Act, 1956, and the Banking Companies Act, 1949, shall not apply to an existing bank, in so far as the said provisions impose any obligation on, or require anything to be done by, any such bank. Companies Act, 1956, and Banking Companies Act, 1949, not to apply to certain existing banks.

1 of 1956.
10 of 1949.

56. The State Bank of Patiala and the Saurashtra Bank shall be entitled to recover in the same manner as an arrear of land revenue any moneys due in respect of loans or advances made before the appointed day by the Bank of Patiala or the Saurashtra Bank, as the case may be, and the provisions of any law, relating to such recovery as were applicable to that bank before the appointed day shall continue to apply to the State Bank of Patiala or the Saurashtra Bank, as the case may be, in respect of such recovery after the appointed day. Continuance of special provisions respecting recovery of loans and advances made by the Bank of Patiala and the State Bank of Saurashtra.

57. No provision of law relating to the winding up of companies shall apply to a subsidiary bank nor shall it be placed in liquidation, save as provided in this Act or by order of the Central Government and in such manner as the Central Government may direct. Bar to liquidation of a subsidiary bank.

58. Notwithstanding anything contained in this Act or in any other law for the time being in force or in any contract or other instrument, an existing bank shall, on such date as the Central Government may, by notification in the Official Gazette, specify in this behalf, stand dissolved. Dissolution of existing banks.

59. On and from the appointed day, any reference to an existing bank in any law, other than this Act, or in any contract or other instrument, shall, except as otherwise provided in any general or special order made by the Central Government, be construed as a reference to the corresponding new bank. Reference in other laws to existing banks.

60. Any powers, duties or functions conferred, imposed or entrusted by this Act on, or to, the Reserve Bank, shall be exercised or performed by the Governor of the Reserve Bank or, in his absence, Exercise of powers and functions on behalf of the Reserve Bank

by a Deputy Governor nominated under sub-section (3) of section 7 of the Reserve Bank of India Act, 1934, or by such officer or officers of the Reserve Bank in respect of such matters and subject to such conditions and limitations as the Governor of the Reserve Bank may specify. 2 of 1934

Protection of action taken under Act.

61. (*1*) No suit or other legal proceeding shall lie against the Central Government, the Reserve Bank or the State Bank or any officer of the Central Government, the Reserve Bank or the State Bank for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act.

(*2*) No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred or any damage caused by reason of the operation of, or anything done in pursuance of, the provisions contained in sections 46 and 47.

Power of Central Government to make rules.

62. (*1*) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) the terms and conditions of service of the Chairman, members and staff of the Tribunal;

(*b*) the manner of, and the procedure for, payment of compensation (including allotment of shares in lieu of compensation) under this Act, including the requirements subject to which the payment shall be made;

(*c*) the determination of the persons to whom compensation shall be payable in all cases including cases where shares have been held by more than one person, or where they have been transferred before the appointed day, but the transfer has not been registered, or where the shareholder is dead;

(*d*) the circumstances under which claims for payment of the said compensation from persons claiming through or under a shareholder may be entertained;

(*e*) the requirements to be complied with before receipt of the said compensation by a shareholder, whose share certificate has been lost, destroyed, mutilated or stolen;

(*f*) the requirements subject to which information regarding the payment of the said compensation may be granted or

refused and the conditions subject to which such information may be given.

(3) All rules made under this section shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

Power of the State Bank to make regulations.

63. (1) The State Bank may, with the approval of the Reserve Bank, make in respect of a subsidiary bank regulations, not inconsistent with this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the powers and duties of the general manager of the subsidiary bank;

(b) the fees and allowances which may be paid to directors or others for attending any meetings of the Board of Directors or of its committees (including the executive committee) or other committees or for attending to any other work of the subsidiary bank;

(c) the time and place at which, and the manner in which, the business of the Board of Directors of the subsidiary bank shall be transacted and the procedure to be followed at the meetings thereof;

(d) the constitution of the executive committee of the subsidiary bank and the conditions and limitations subject to which the executive committee may exercise its powers and the procedure to be followed at the meetings thereof;

(e) the formation of any other committees, whether of the Board of Directors of the subsidiary bank or otherwise, and the delegation of powers and functions of the Board to such committees and the conduct of business in such committees;

(f) the nature of shares of the subsidiary bank, the manner in which, and the conditions subject to which, shares may be held and transferred and generally all matters relating to the rights and duties of shareholders;

(g) the maintenance of share registers, and the particulars to be entered in such registers in addition to those specified in

section 21, the inspection and closure of the registers and all other matters connected therewith;

(*h*) the holding and conduct of elections under this Act and the final determination of doubts or disputes regarding the qualifications of candidates for election or regarding the validity of elections;

(*i*) the manner in which general meetings shall be convened, the procedure to be followed thereat and the manner in which voting rights may be exercised;

(*j*) the manner in which notices may be served on behalf of the subsidiary bank upon shareholders or other persons;

(*k*) the payment of dividends, including interim dividends;

(*l*) the delegation of powers and functions of the Board of Directors of the subsidiary bank to the general manager or directors or officers or other employees of that bank;

(*m*) the conditions and limitations subject to which the subsidiary bank may appoint officers, advisers and other employees and fix their remuneration and other terms and conditions of service;

(*n*) the duties and conduct of officers, advisers and other employees of the subsidiary bank;

(*o*) the establishment and maintenance of superannuation, pension, provident or other funds for the benefit of the officers or employees of the subsidiary bank or of the dependants of such officers or employees or for the purposes of the subsidiary bank, and the granting of superannuation allowances, annuities and pensions payable out of any such fund;

(*p*) the conduct and defence of legal proceedings by or against the subsidiary bank and the manner of signing pleadings;

(*q*) the provision of a seal for the subsidiary bank and the manner and effect of its use;

(*r*) the form and manner in which contracts binding on the subsidiary bank may be executed;

(*s*) the conditions and requirements subject to which loans or advances may be made or bills may be discounted or purchased by the subsidiary bank;

(*t*) the conditions subject to which loans or advances may be made by the subsidiary bank to its directors or officers or the relatives of such directors or officers or to companies, firms or indivi-

duals with which or with whom such directors or officers or relatives are connected as partners, directors, managers, servants, shareholders or otherwise;

(*u*) the persons or authorities who shall administer any pension, provident or other fund constituted for the benefit of the officers or employees of the subsidiary bank or their dependants or for the purposes of that bank;

(*v*) the circumstances in which the specific approval of the State Bank shall be required to the grant of loans and advances or investment of funds by the subsidiary bank or to any contract, arrangement or proposal entered into or proposed to be entered into by the subsidiary bank;

(*w*) the preparation and submission to the State Bank and the Reserve Bank of statements of programmes of activities and financial statements of the subsidiary bank and the periods for which, and the time within which, such statements and estimates are to be prepared and submitted;

(*x*) the person or persons in the State Bank by whom any powers, duties or functions conferred, imposed or entrusted on or to the State Bank under this Act may be exercised or performed;

(*y*) generally, for the efficient conduct of the affairs of the subsidiary bank.

(*3*) All regulations under this section, except the first regulations, shall be made in consultation with the Board of Directors of the subsidiary bank concerned.

Amendment of certain enactments.

64. The enactments specified in Parts I to VII of the Third Schedule shall be amended in the manner directed in the first column thereof and such amendments shall take effect on the dates specified in the second column thereof.

Saving.

23 of 1955.

65. Nothing in this Act shall be deemed to affect the provisions of section 35 of the State Bank of India Act, 1955.

THE FIRST SCHEDULE

(*See* sections 13 and 14)

PRINCIPLES OF COMPENSATION

1. A. The compensation to be given by the State Bank shall, in the case of the Hyderabad Bank, the Bank of Patiala or the Saurashtra Bank, be an amount equal to the value of the assets of that bank as on the day immediately before the appointed day, computed in

accordance with the provisions of Part I of this paragraph *less* the total amount of liabilities thereof computed in accordance with the provisions of Part II of this paragraph.

B. The total compensation to be given by the State Bank in respect of the transfer of the shares in the capital of the existing banks, other than the Bank of Patiala, to the persons (including any State Government) who, immediately before the appointed day, are registered as holders of shares in the books of each of these banks shall, in each case, be an amount equal to the value of the assets of that bank as on the day immediately preceding the appointed day in relation to the corresponding new bank, computed in accordance with the provisions of Part I of this paragraph *less* the total amount of liabilities thereof computed in accordance with the provisions of Part II of this paragraph.

PART I—*Assets*

For the purposes of this paragraph, assets means the total of the following:—

(*a*) the amount of cash in hand and with the Reserve Bank and the State Bank (including foreign currency notes which shall be converted at the market rate of exchange);

(*b*) the amount of balances with any other bank, not being the Reserve Bank or the State Bank, whether on deposit or current account, and money at call and short notice, balances held outside India being converted at the market rate of exchange:

Provided that any balances which are not realisable in full shall be deemed to be debts and valued accordingly;

(*c*) the market value as on the appointed day of any securities, shares, debentures, bonds and other investments, held by the bank concerned;

Explanation.—For the purposes of this clause,—

(*i*) securities of the Central and State Governments [other than the securities specified in sub-clauses (*ii*) and (*iii*) of this *Explanation*] maturing for redemption within five years from the appointed day shall be valued at the face value or the market value whichever is higher;

(*ii*) securities of the Central Government, such as Post Office Certificates and Treasury Savings Deposit Certificates and any other securities or certificates issued or to be issued under the Small Savings Scheme of the Central Government, shall be valued at their face value or the encashable value as on the appointed day, whichever is higher;

(*iii*) where the market value of any Government security such as the zamindari abolition bonds or other similar security in respect of which the principal is payable in instalments, is not ascertainable or is, for any reason, not considered as reflecting the fair value thereof or as otherwise appropriate, the security shall be valued at such an amount as is considered reasonable having regard to the instalments of principal and interest remaining to be paid, the period during which such instalments are payable, the yield of any security, issued by the Government to which the security pertains and having the same or approximately the same maturity, and other relevant factors;

(*iv*) where the market value of any security, share, debenture, bond or other investment is not considered reasonable by reason of its having been affected by abnormal factors, the investment may be valued on the basis of its average market value over any reasonable period;

(*v*) where the market value of any security, share, debenture, bond or other investment is not ascertainable, only such value, if any, shall be taken into account as is considered reasonable having regard to the financial position of the issuing concern, the dividend paid by it during the preceding five years and other relevant factors;

(*d*) the amount of advances (including loans, cash credits, overdrafts, bills purchased and discounted), and other debts, whether secured or unsecured, to the extent to which they are reasonably considered recoverable, having regard to the value of the security, if any, the operations on the account, the reported worth and respectability of the borrower, the prospects of realisation and other relevant considerations;

(*e*) the market value of any land or buildings;

(*f*) the total amount of the premia paid, in respect of all leasehold properties, reduced in the case of each such premium by an amount which bears to such premium the same proportion

as the expired term of the lease in respect of which such premium shall have been paid bears to the total term of the lease;

(*g*) the written down value as per books, or the realisable value, as may be considered reasonable, of all furniture, fixtures and fittings;

(*h*) the market or realisable value, as may be appropriate, of other assets appearing on the books of the bank, no value being allowed for capitalised expenses, such as share selling commission, organisational expenses and brokerage, losses incurred and similar other items.

PART II—*Liabilities*

For the purposes of this paragraph, "liabilities" means the total amount of all outside liabilities existing on the appointed day and all contingent liabilities which the subsidiary bank concerned may reasonably be expected to be required to meet out of its own resources on or after the appointed day.

COMPENSATION PAYABLE TO SHAREHOLDERS

2. Every shareholder of an existing bank other than the Bank of Patiala shall be given such amount as compensation as bears to the total compensation, in respect of each of the said banks calculated in accordance with the provisions of paragraph 1, the same proportion as the amount of the paid-up capital of the shares held by the shareholder bears to the total paid-up capital of that bank.

CERTAIN DIVIDENDS NOT TO BE TAKEN INTO ACCOUNT

3. No separate compensation shall be payable for any profits or any dividend in respect of any period immediately preceding the appointed day for which, in the ordinary course, profits would have been transferred or dividend declared after the appointed day.

THE SECOND SCHEDULE

(*See* section 52)

DECLARATION OF FIDELITY AND SECRECY

I,....., do hereby declare that I will faithfully, truly and to the best of my skill and ability execute and perform the duties required of me as.....(director, auditor, adviser, officer or employee, as the case may be) of the State

Bank of .....*and which properly relate to the office or position held by me in, or in relation to, the said bank.

I further declare that I will not communicate, or allow to be communicated, to any person not legally entitled thereto any information relating to the affairs of the State Bank of.....* or to the affairs of any person having any dealing with the said bank; nor will I allow any such person to inspect or have any access to any books or documents belonging to, or in the possession of, the State Bank of .....* and relating to the business of the said bank or to the business of any person having any dealing with the said bank.

*Here enter the name of the subsidiary bank concerned.

THE THIRD SCHEDULE

(*See* section 64)

AMENDMENTS TO CERTAIN ENACTMENTS

PART I

Amendments to the Reserve Bank of India Act, 1934 (2 *of* 1934)

Amendments	Date on which amendments shall take effect
1. In section 17,—	
(*a*) after clause (*8A*), insert the following, namely:—	
"(*8B*) the keeping of deposits with the State Bank for such specific purposes as may be approved by the Central Government in this behalf;";	The date of commencement of this Act.
(*b*) omit clause (*14A*) . . .	Appointed day in relation to the Hyderabad Bank.
2. For section 45, substitute the following, namely:—	
'45. (*1*) Unless otherwise directed by the Central Government with reference to any place, the Bank shall appoint the State Bank as its sole agent at all places in India where it does not have an office or branch of the Banking Department and there is a branch of the State Bank or a branch of a subsidiary bank.	Date of commencement of this Act. — Obligation to appoint State Bank as agent.

Amendments	Date on which amendments shall take effect
(2) Notwithstanding anything contained in sub-section (1) or in any agreement between the Bank and the State Bank, the Bank may, until an arrangement under section 36 of the State Bank of India (Subsidiary Banks) Act, 1959, is made by the State Bank with the State Bank of Hyderabad or the State Bank of Mysore, employ or continue to employ as its agent, the State Bank of Hyderabad or, as the case may be, the Bank of Mysore, Limited or the State Bank of Mysore, at such places where, and for such purposes for which, the Hyderabad Bank and the Bank of Mysore, Limited were respectively acting as agents of the * Bank immediately before the commencement of that Act and, with the previous approval of the Central Government, at any other place and for any purpose.	Date of commencement of this Act.
Explanation.—The expression "subsidiary bank" in this section shall have the same meaning as in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959.'.	
3. In the Second Schedule,—	
(*a*) for the words "Bank of Jaipur, Jaipur", substitute the words "State Bank of Jaipur";	Appointed day in relation to the State Bank of Jaipur.
(*b*) for the words "Bank of Mysore, Bangalore", substitute the words "State Bank of Mysore";	Appointed day in relation to the State Bank of Mysore.
(*c*) for the words "Bank of Bikaner, Ltd., Bikaner", substitute the words "State Bank of Bikaner";	Appointed day in relation to the State Bank of Bikaner.
(*d*) for the words "Travancore Bank, Ltd., Trivandrum Taluk", substitute the words "State Bank of Travancore" ;	Appointed day in relation to the State Bank of Travancore.
(*e*) for the words "Bank of Indore", substitute the words "State Bank of Indore" ;	Appointed day in relation to the State Bank of Indore.
(*f*) for the words "The Bank of Patiala, Patiala", substitute the words "State Bank of Patiala.".	Appointed day in relation to the State Bank of Patiala.

PART II

Amendment to the Industrial Disputes Act, 1947 (14 *of* 1947)

Amendments	Date on which amendments shall take effect
In section 2, for clause (*bb*), substitute the following, namely :—	
'(*bb*) "banking company" means a banking company as defined in section 5 of the Banking Companies Act, 1949, having branches or other establishments in more than one State, and includes the Reserve Bank of India, the State Bank of India and any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;'.	The date of commencement of this Act.

PART III

Amendment to the Banking Companies Act, 1949 (10 *of* 1949)

In section 51, for the proviso, substitute the following, namely:—

'Provided that—

(*a*) nothing contained in clause (*c*) of sub-section (*1*) of section 10 shall apply to the chairman of the State Bank of India or to a general manager of any subsidiary bank in so far as the said clause precludes him from being a director of, or holding an office in, any institution approved by the Reserve Bank ;

(*b*) nothing contained in section 19 shall apply to the holding by the State Bank of India of shares in the capital of any such subsidiary bank; and

(*c*) nothing contained in section 46 shall apply to any officer of the Central Government or the Reserve Bank or the State Bank of India, nominated or appointed as director of the State Bank of India, or any such subsidiary bank or any other banking institution notified by the Central Government under this section.

} The date of commencement of this Act.

Amendments	Date on which amendments shall take effect
Explanation—The expression "subsidiary bank" in this section shall have the same meaning as in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959.'.	

PART IV

Amendment to the Banking Companies (Legal Practitioners' Clients' Accounts) Act, 1949 (46 of 1949)

In section 2, for clause (*a*), substitute the following, namely :—

'(*a*) "banking company" means any banking company as defined in section 5 of the Banking Companies Act, 1949, and includes the State Bank of India and any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;'.	The date of commencement of this Act.

PART V

Amendments to the Saurashtra State Banks (Amalgamation) Ordinance, 1950

1. For the long title, preamble and the enacting formula, substitute :— "An Act to regulate the working of the State Bank of Saurashtra.".	
2. For section 1, substitute :— "1. *Short title.*—This Act may be called the State Bank of Saurashtra Act, 1950.".	
3. For Section 1A, substitute :— '1A. *Definitions.*—In this Act,— (*a*) "appointed day" means the date on which the amendments to this Act made by the State Bank of India (Subsidiary Banks) Act, 1959, take effect ; (*b*) "Reserve Bank" means the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 ;	

Amendments	Date on which amendments shall take effect
(*c*) "Saurashtra Bank" means the State Bank of Saurashtra;	
(*d*) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955.'.	
4. In section 2,—	
(*i*) in sub-section (*1*),—	
(*a*) for the words "from the date of publication of this Ordinance in the Local Official Gazette", substitute "from the 19th day of January, 1950"; and	
(*b*) omit the words and brackets "(hereinafter referred to as the Bank)";	
(*ii*) for sub-sections (*2*), (*3*) and (*4*), substitute :—	
"(*2*) The head office of the Saurashtra Bank shall be at Bhavnagar or at such other place as the Central Government may, by notification in the Official Gazette, from time to time, specify.".	
5. In section 3,—	
(*a*) in sub-section (*1*),—	
(*i*) for the words "The Bank", substitute the words "The Saurashtra Bank";	
(*ii*) after the words "perpetual succession" add the following, namely :—	
"and a common seal and shall sue and be sued in its name.";	

23 of 1955.

The date on which the Central Government, by notification in the Official Gazette, directs that these amendments shall take effect.

Amendments	Date on which amendments shall take effect
(*b*) after sub-section (*1*), insert the following, namely :—	
"(*2*) With effect from the appointed day, the said corporate body shall consist of the State Bank and other shareholders, if any, for the time being of the Saurashtra Bank.	
(*3*) The Saurashtra Bank shall carry on the business in accordance with the provisions of the State Bank of India (Subsidiary Banks) Act, 1959, and shall have power to acquire and hold property, whether movable or immovable, for the purposes of its business and to dispose of the same.".	
6. For sections 4 to 8, substitute the following, namely :—	The date on which the Central Government, by notification in the Official Gazette, directs that these amendments shall take effect.
Branches of Saurashtra Bank. "4. The Saurashtra Bank shall not discontinue any of its branches in existence immediately before the appointed day nor shall it establish any new branch except in consultation with the State Bank and with the approval of the Reserve Bank.	
Authorised Capital. 5. (*1*) The authoirsed capital of the Saurashtra Bank shall be two crores of rupees divided into shares of one hundred rupees each.	
(*2*) Notwithstanding anything contained in this section, the State Bank may, with the approval of the Reserve Bank, authorise the Saurashtra Bank to increase or reduce its authorised capital :	
Provided that where the authorised capital is so increased, the shares issued shall be of the denomination specified in sub-section (*1*).	
Issued Capital. 6. (*1*) The issued capital of the Saurashtra Bank shall, on the appointed	

Amendments	Date on which amendments shall take effect
day, be such amount as the State Bank, with the approval of the Reserve Bank, may fix in this behalf, so however that the amount shall be so fixed as to consist only of fully paid-up shares of one hundred rupees each.	
(*2*) All shares in the issued capital of the Saurashtra Bank shall, on the appointed day, vest in the State Bank.	
(*3*) Without prejudice to the provisions contained in sub-section (*4*), the Saurashtra Bank may, with the approval of the State Bank and the Reserve Bank, increase, from time to time, its issued capital and the capital so increased shall consist of fully paid-up shares to be issued in such manner as the State Bank may, with the approval of the Reserve Bank, direct : Provided that the issued capital shall be so increased that at no time shall the State Bank hold less than fifty-five per cent. of the issued capital of the Saurashtra Bank.	The date on which the Central Government, by notification in the Official Gazette, directs that these amendments shall take effect.
(*4*) The State Bank shall, as soon as may be, after the determination, if any, of the amount of compensation by the Tribunal under the State Bank of India (Subsidiary Banks) Act, 1959, consider whether any increase or reduction of the issued capital of the Saurashtra Bank as fixed under sub-section (*1*) by way of adjustment by transfer from, or to, the reserves of the Saurashtra Bank or in any other manner, is necessary, expedient or appropriate and may, thereafter, with the approval of the Reserve Bank, direct the Saurashtra Bank to increase or reduce its issued capital.	

Amendments	Date on which amendments shall take effect
Reserve Fund. 7. (*1*) The reserve fund of the Saurashtra Bank shall, subject to the provisions of sub-section (*4*) of section 6 and sub-section (*2*) of this section, consist of—	
(*a*) on the appointed day, such sum as the State Bank, with the approval of the Reserve Bank, may determine; and	
(*b*) after the appointed day, the sum aforesaid together with such further sums as may be transferred to the reserve fund by the Saurashtra Bank out of its annual net profits before declaring a dividend.	The date on which the Central Government, by notification in the Official Gazette, directs that these amendments shall take effect.
(*2*) The State Bank shall, as soon as may be after the determination, if any, of the amount of compensation by the Tribunal, under the State Bank of India (Subsidiary Banks) Act, 1959, consider whether any increase or reduction of the reserve fund of the Saurashtra Bank is necessary by way of adjustment by transfer from or to any account or towards provision for bad and doubtful debts, depreciation in assets, or contingencies or for any other purpose and may thereafter with the approval of the Reserve Bank, direct the Saurashtra Bank to so increase or reduce its reserve fund.".	

PART VI

Amendments to the State Bank of India Act, 1955 (23 *of* 1955)

1.	In section 2, after clause (*g*), insert the following, namely:—	The date of commencement of this Act.
	'(*h*) "subsidiary bank" means a subsidiary bank as defined in the	

Amendments	Date on which amendments shall take effect
State Bank of India (Subsidiary Banks) Act, 1959.'.	
2. In section 18, in sub-section (*1*), after the words "the discharge of its functions", insert the words "including those relating to a subsidiary bank".	
3. In section 32,—	
(*a*) in sub-section (*1*), after the words "where it has a branch", insert the words "or where there is a branch of a subsidiary bank";	
(*b*) in sub-section (*4*), for the words "either by itself", substitute the words "by itself or through a subsidiary bank".	
In section 33,—	
(*a*) after clause (*iv*), insert the following, namely :—	
"(*iva*) the keeping or maintenance of deposits or cash accounts with any banking institution;";	The date of commencement of this Act.
(*b*) in clause (*xix*), for the words "and the forming or conducting of any such banking institution as a subsidiary of the State Bank or in any other manner", substitute the words "the forming or conducting of any such banking institution as a subsidiary of the State Bank or in any other manner and the granting of subsidies or the advancing or lending of moneys to any such subsidiary".	
5. In section 36, in sub-section (*2*), omit the word "and" occurring after clause (*a*) and thereafter, insert the following, namely :—	
"(*aa*) subsidies granted by the State Bank to a subsidiary bank with the approval of the Reserve Bank; and".	

PART VII

Amendments to the State Bank of Hyderabad Act, 1956 (79 *of* 1956)

Amendments	Date on which amendments shall take effect
1. In section 2, after clause (*e*), insert :—	
'(*f*) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955 '.	23 of 1955
2. In section 3,—	
(*a*) in sub-section (*1*), omit "and shall, as from that day, carry on the business of banking and other business in accordance with the provisions of this Act and shall have power to acquire and hold property, whether movable or immovable for the purposes of this Act and to dispose of the same".	
(*b*) for sub-section (*2*), substitute :—	
"(*2*) The said body corporate shall consist of the State Bank and other shareholders, if any, for the time being, of the Hyderabad Bank.	The date on which the Central Government, by notification in the Official Gazette, directs that these amendments shall take effect.
(*2A*) The Hyderabad Bank shall carry on the business of banking and other business in accordance with the provisions of the State Bank of India (Subsidiary Banks) Act, 1959, and shall have power to acquire and hold property, whether movable or immovable, for the purposes of its business and to dispose of the same.".	
3. In section 4, in sub-section(*2*), for "and shall not discontinue any such branch or agency or establish any new branch or	

Amendments	Date on which amendments shall take effect
agency except with the previous approval of the Reserve Bank", substitute "and shall not discontinue any branch or establish any new branch except in consultation with the State Bank and with the approval of the Reserve Bank".	
4. For sections 9 and 10, substitute :—	
"9. (*1*) The authorised capital of the Hyderabad Bank shall be one crore of rupees, divided into shares of one hundred rupees each.	Authorised capital.
(*2*) Notwithstanding anything contained in this section, the State Bank may, with the approval of the Reserve Bank, authorise the Hyderabad Bank to increase or reduce its authorised capital :	
Provided that where the authorised capital is so increased, the shares issued shall be of the denomination specified in sub-section (*1*).	The date on which the Central Government, by notification in the Official Gazette, directs that these amendments shall take effect.
10. (*1*) The issued capital of the Hyderabad Bank shall, on the day on which the amendments to this Act made by the State Bank of India (Subsidiary Banks) Act, 1959, take effect, be of such amount as the State Bank, with the approval of the Reserve Bank may fix in this behalf, so however that the amount shall be so fixed as to consist only of fully paid-up shares of one hundred rupees each.	Issued capital.
(*2*) All shares in the issued capital of the Hyderabad Bank shall, on that day, vest in the State Bank.	
(*3*) Without prejudice to the provisions contained in sub-section (*4*), the Hyderabad Bank may, with the approval of the State Bank and the Reserve Bank,	

Amendments	Date on which amendments shall take effect
increase, from time to time, its issued capital and the capital so increased shall consist of fully paid-up shares to be issued in such manner as the State Bank may, with the approval of the Reserve Bank, direct : Provided that the issued capital shall be so increased that at no time shall the State Bank hold less than fifty-five per cent. of the issued capital of the Hyderabad Bank. (*4*) The State Bank shall, as soon as may be, after the determination, if any, of the amount of compensation by the Tribunal under the State Bank of India (Subsidiary Banks) Act, 1959, consider whether any increase or reduction of the issue capital of the Hyderabad Bank as fixed under sub-section (*1*) by way of adjustment by transfer from, or to, the reserves of the Hyderabad Bank or in any other manner, is necessary, expedient or appropriate and may, thereafter, with the approval of the Reserve Bank, direct the Hyderabad Bank to increase or reduce its issued capital.".	The date on which the Central Government, by notification in the Official Gazette, directs that these amendments shall take effect.
5. Omit sections 11 to 26 inclusive.	
6. For section 27, substitute :—	
Reserve fund. "27. (*1*) The reserve fund of the Hyderabad Bank shall, subject to the provisions of sub-section (*4*) of section 10, and sub-section (*2*) of this section, consist of— (*a*) on the day on which the amendments to this Act made by the State Bank of India (Subsidiary Banks) Act, 1959, take effect, such sum as the State Bank, with the approval of the Reserve Bank, may determine; and	

Amendments	Date on which amendments shall take effect
(*b*) after that day, the sum aforesaid together with such further sums as may be transferred to the reserve fund by the Hyderabad Bank out of its annual net profits before declaring a dividend.	
(*2*) The State Bank shall, as soon as may be after the determination, if any, of the amount of compensation by the Tribunal, under the State Bank of India (Subsidiary Banks) Act, 1959, consider whether any increase or reduction of the reserve fund of the Hyderabad Bank is necessary by way of adjustment by transfer from or to any account or towards provision for bad and doubtful debts, depreciation in assets, or contingencies or for any other purpose and may thereafter, with the approval of the Reserve Bank, direct the Hyderabad Bank to so increase or reduce its reserve fund.".'	The date on which the Central Government, by notification in the Official Gazette, directs that these amendments shall take effect.
7. Omit sections 28 to 40 inclusive, sections 42, 43, 45 and 46 and the First and Second Schedules.	

GMGIPND—LS I—597 (B) LS.—3-9-59—2,210

APPENDIX I

(*Vide* para 3 of the Report)

Motion in the Lok Sabha for reference of the Bill to Joint Committee

"That the Bill to provide for the formation of certain Government or Government-associated banks as subsidiaries of the State Bank of India and for the constitution, management and control of the subsidiary banks so formed, and for matters connected therewith or incidental thereto, be referred to a Joint Committee of the Houses consisting of 45 members; 30 from this House, namely:

1. Shri C. Bali Reddy
2. Shri M. R. Krishna
3. Dr. Ram Subhag Singh
4. Shri Shree Narayan Das
5. Dr. M. S. Aney
6. Kumari Maniben Vallabhbhai Patel
7. Major Raja Bahadur Birendra Bahadur Singh
8. Shri Amar Singh Damar
9. Shri K. G. Wodeyar
10. Shri T. Ganapathy
11. Shri M. Palaniyandy
12. Shri Bahadur Singh
13. Shri S. R. Damani
14. Dr. Pashupati Mandal
15. Shri Vishnu Sharan Dublish
16. Shri Lachhi Ram
17. Shri Punna Lal
18. Shri Kanhu Charan Jena
19. Shri K. S. Ramaswamy
20. Shri Ram Shanker Lal
21. Shri B. R. Bhagat
22. Shri Prabhat Kar
23. Shri P. K. Kodiyan

24. Shri J. M. Mohammed Imam
25. Shri Ram Chandra Majhi
26. H.H. Maharaja Pratap Keshari Deo
27. Shri Subiman Ghose
28. Shri Laisram Achaw Singh
29. Shri Balasaheb Salunke, and
30. Shri Morarji Desai

and 15 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the first day of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee."

APPENDIX II

(*Vide* para 4 of the Report)

Motion in the Rajya Sabha

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the House on the Bill to provide for the formation of certain Government or Government associated banks as subsidiaries of the State Bank of India and for the constitution, management and control of the subsidiary banks so formed, and for matters connected therewith, or incidental thereto, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

1. Shri K. P. Madhavan Nair
2. Shri Tika Ram Paliwal
3. Shri Jaspat Roy Kapoor
4. Shrimati Puspalata Das
5. Shri Jadavji Keshavji Modi
6. Dr. Anup Singh
7. Shri N. M. Lingam
8. Syed Mazhar Imam
9. Shri Jagannath Prasad Agrawal
10. Shri Niranjan Singh
11. Shri Perath Narayanan Nair
12. Shri Harihar Patel
13. Shri Mulka Govinda Reddy
14. Dr. P. J. Thomas
15. Dr. B. Gopala Reddi."

APPENDIX III

(*Vide* para 8 of the Report)

Statement showing particulars of memoranda/representations etc. received by the Joint Committee and the action taken thereon

Serial No.	Nature of document	From whom received	Action taken
1	Memoranda	Bank of Patiala Employees Union, Kapurthala.	Circulated to members
2	Do.	Bank of Patiala (All Cadre) Employees Association (Registered) Patiala.	Do.
3	Do.	All India Bank Employees Association, Delhi.	Circulated to members and evidence of the Association taken on the 3rd July, 1959.
4	Do.	Shareholders of the Bank of Mysore Ltd. and the Businessmen of Mysore State.	Circulated to members
5	Do.	The Bank of Mysore Ltd.	Do.

APPENDIX IV

MINUTES OF THE SITTINGS OF THE JOINT COMMITTEE ON THE

I

First Sitting

The Committee met from 15.00 hours to 15.30 hours on Saturday, the 9th May, 1959.

PRESENT

Shri J. M. Mohamed Imam—*Chairman*

MEMBERS

Lok Sabha

2. Dr. Ram Subhag Singh
3. Shri Shree Narayan Das
4. Kumari Maniben Vallabhbhai Patel
5. Shri Amar Singh Damar
6. Shri K. G. Wodeyar
7. Shri T. Ganapathy
8. Shri M. Palaniyandy
9. Shri Bahadur Singh
10. Dr. Pashupati Mandal
11. Shri Vishnu Sharan Dublish
12. Shri Panna Lal
13. Shri Kanhu Charan Jena
14. Shri Ram Shanker Lal
15. Shri B. R. Bhagat
16. Shri Prabhat Kar
17. Shri P. K. Kodiyan
18. Shri Ram Chandra Majhi
19. Shri Subiman Ghose
20. Shri Morarji Desai

21. Shri K. P. Madhavan Nair
22. Shri Tika Ram Paliwal
23. Shri Jaspat Roy Kapoor
24. Shri N. M. Lingam
25. Shri Jagannath Prasad Agrawal
26. Shri Niranjan Singh
27. Shri P. Narayanan Nair
28. Shri Harihar Patel
29. Shri Mulka Govinda Reddy.
30. Dr. P. J. Thomas
31. Dr. B. Gopala Reddy.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri A. Baksi, *Joint Secretary, Ministry of Finance.*

Shri R. K. Seshadri, *Deputy Secretary, Ministry of Finance.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee held a discussion about their future programme of sittings.

3. The Committee considered whether any evidence should be taken by them and whether it was necessary to issue a press communique advising associations and individuals desirous of presenting their suggestions or views before the Committee in respect of the Bill to submit written memoranda thereon.

4. It was decided that a press communique might be issued advising associations, public bodies and individuals who are desirous of presenting their suggestions or views or give evidence before the Committee in respect of the Bill to send written memoranda thereon to the Lok Sabha Secretariat by the 10th June, 1959.

5. The Committee authorised the Chairman to decide after examining the memoranda as to which of the Associations, public bodies etc. might be called upon to give oral evidence before the Committee.

6. The Committee desired that copies of the State Bank of India Act, 1955, might be circulated to the Members of the Committee.

7. The Committee further decided that if any member desired any further literature on the subject he might write to the Lok Sabha Secretariat for its supply, if available.

8. The Committee decided to hold their future sittings from 1st July, 1959 onwards.

9. The Committee then adjourned to meet again at 10·00 hours on Wednesday, the 1st July, 1959.

II

The Committee met from 10:00 hours to 13:06 hours on Wednesday, the 1st July, 1959.

PRESENT

Shri J. M. Mohamed Imam—*Chairman*

MEMBERS

Lok Sabha

2. Shri C. Bali Reddy
3. Dr. Ram Subhag Singh
4. Shri Shree Narayan Das
5. Dr. M. S. Aney
6. Kumari Maniben Vallabhbhai Patel
7. Major Raja Bahadur Birendra Bahadur Singh
8. Shri Amar Singh Damar
9. Shri K. G. Wodeyar
10. Shri T. Ganapathy
11. Shri Bahadur Singh
12. Dr. Pashupati Mandal
13. Shri Vishnu Sharan Dublish
14. Shri Lachhi Ram
15. Shri Panna Lal
16. Shri Kanhu Charan Jena
17. Shri Ram Shanker Lal
18. Shri B. R. Bhagat
19. Shri Ram Chandra Majhi
20. Shri Subiman Ghose
21. Shri Laisram Achaw Singh
22. Shri Morarji Desai

Rajya Sabha

23. Shri K. P. Madhavan Nair
24. Shri Tika Ram Paliwal

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*Paras 6 to 10 which deal wtth the State Bank of India (Amendment) Bill, 1959 have not been included in this Minutes.

25. Shri Jaspat Roy Kapoor
26. Shrimati Pushpalata Das
27. Shri Jadavji Keshavji Modi
28. Dr. Anup Singh
29. Shri N. M. Lingam
30. Syed Mazhar Imam
31. Shri Jagannath Prasad Agrawal
32. Shri Niranjan Singh
33. Shri P. Narayanan Nair
34. Shri Harihar Patel
35. Dr. B. Gopala Reddy.

DRAFTSMAN

Shri S. K. Hiranandani, *Joint Secretary and Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri P. C. Bhattacharyya, *Chairman, State Bank of India.*

Shri M. V. Rangachari, *Special Secretary, Ministry of Finance.*

Shri A. Baksi, *Joint Secretary, Ministry of Finance.*

Shri R. K. Seshadri, *Deputy Secretary, Ministry of Finance.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Chairman informed the Committee that the request of the Bank of Patiala Employees Union, Kapurthala, for permission to tender evidence before the Joint Committee had not been accepted by him as their main suggestion was for merger of the Bank of Patiala with the State Bank of India, which is against the principle of the Bill.

3. The Chairman also informed the Committee that the All India Bank Employees Association, Delhi which had been asked to tender evidence today, had written to say that their representatives were ill and so they might be heard after the 6th July, 1959.

The Committee decided not to wait for them till then, but in case they desire to tender evidence before the Committee on the 3rd July, 1959, at 10·1 hours, they might do so.

4. The Chairman next informed the Committee that a request had been received yesterday evening from certain shareholders of the Bank of Mysore Ltd., Bangalore for permission to tender evidence before the Committee.

The Committee decided that since their request had been received late, they might not be asked to tender evidence.

5. The Committee, then decided to take up the two Bills in the following order:—

(i) The State Bank of India (Amendment) Bill, 1959.

(ii) The State Bank of India (Subsidiary Banks) Bill, 1959.

* * * * * * *

11. The Committee then took up clause by clause consideration of the State Bank of India (Subsidiary Banks) Bill, 1959.

12. *Clauses* 2—7: These clauses were adopted without any amendment.

13. *Clause* 8: The consideration of this clause was held over.

14. *Clauses* 9-10: These clauses were adopted without any amendment.

15. *Clause* 11: Consideration of this clause was held over.

16. *Clause* 12: The clause was adopted without any amendment.

17. *Clause* 13: Sub-clauses (1) to (3) were adopted without any amendment.

Discussion of Sub-clause (4) was taken up but not concluded.

18. The Committee decided to sit from 14·00 hours to 19·00 hours on the 2nd July, 1959.

19. The Committee then adjourned.

III

*Third Sitting

The Joint Committees met from 14:00 hours to 19·03 hours on Thursday, the 2nd July, 1959.

PRESENT

Shri J. M. Mohamed Imam—*Chairman*

MEMBERS

Lok Sabha

2. Shri C. Bali Reddy
3. Shri M. R. Krishna
4. Dr. Ram Subhag Singh
5. Shri Shree Narayan Das
6. Dr. M. S. Aney
7. Kumari Maniben Vallabhbhai Patel
8. Major Raja Bahadur Birendra Bahadur Singh
9. Shri Amar Singh Damar
10. Shri K. G. Wodeyar
11. Shri T. Ganapathy
12. Shri M. Palaniyandy
13. Shri Bahadur Singh
14. Dr. Pashupati Mandal
15. Shri Vishnu Sharan Dublish
16. Shri Lachhi Ram
17. Shri Panna Lal
18. Shri Kanhu Charan Jena
19. Shri K. S. Ramaswamy
20. Shri Ram Shanker Lal
21. Shri B. R. Bhagat
22. Shri P. K. Kodiyan
23. Shri Ram Chandra Majhi
24. H. H. Maharaja Pratap Keshari Deo

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*Para 2 which deals with the State Bank of India (Amendment) Bill, 1959 has not been included in these minutes.

25. Shri Subiman Ghose
26. Shri Laisram Achaw Singh
27. Shri Morarji Desai

Rajya Sabha

28. Shri K. P. Madhavan Nair
29. Shri Tika Ram Paliwal
30. Shri Jaspat Roy Kapoor
31. Shri Jadavji Keshavji Modi
32. Dr. Anup Singh
33. Shri N. M. Lingam
34. Syed Mazhar Imam
35. Shri Jagannath Prasad Agrawal
36. Shri Niranjan Singh
37. Shri P. Narayanan Nair
38. Shri Harihar Patel
39. Dr. B. Gopala Reddy.

DRAFTSMAN

Shri S. K. Hiranandani, *Joint Secretary and Draftsman, Ministry of Law.*

Shri V. N. Bhatia, *Deputy Draftsman Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri P. C. Bhattacharyya, *Chairman, State Bank of India.*

Shri M. V. Rangachari, *Special Secretary, Ministry of Finance.*

Shri A. Baksi, *Joint Secretary, Ministry of Finance.*

Shri R. K. Seshadri, *Deputy Secretary, Ministry of Finance.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

* * * * * * *

3. The Committee then resumed clause by clause consideration of the State Bank of India (Subsidiary Banks) Bill, 1959.

4. *Clause* 13.—The following amendments were accepted:—

(i) Page 8, line 39,

for "one-third" *substitute* "one-fourth".

(ii) Page 9, line 20,—

after "sub-section (5)" *insert*—

"or such extended period as the State Bank may think fit in any particular case to allow".

(iii) Page 10,—

after line 7, *insert*—

"Explanation:—For the purpose of determining the number of shares under this sub-section fractions of a share shall be disregarded."

The clause as amended was adopted.

5. *Clause* 14.—The Committee felt that the amount of compensation to be given to the Bank of Patiala and the Saurashtra Bank ought to be determined by the State Bank in consultation with the Reserve Bank.

The draftsman was directed to amend sub-clause (2) accordingly.

Subject to the above, the clause was adopted.

6. *Clause* 15.—The following amendment was accepted:—

In page 11, line 31,—

after "Knowledge" *insert* "or experience".

The draftsman was directed to amend sub-clause (4) accordingly.

7. *Clauses* 16—18.—These clauses were adopted without any amendment.

8. *Clause* 19.—(1) The following amendment was accepted:—

In page 13, line 4,—

omit "and" and *after* line 6, *insert*—

"(h) a share-holder of an existing bank who is allotted any shares under sub-section (9) of section 13."

(2) The draftsman was directed to examine whether in sub-clause (2) the words "issued capital" ought to be substituted by the words "subscribed capital" to make the intention clear.

Subject to above, the clause as amended was adopted.

9. *Clauses* 20—22.—These clauses were adopted without any amendment.

10. *Clause* 23.—The following amendments were accepted:—

In page 13,—

(i) line 36, *after* "Board of Management" *insert*—

"(including a member of a local or advisory committee)".

(ii) line 38,—

for "or assistant general manager" *substitute* "assistant general manager or an adviser".

The clause as amended was adopted.

11. *Clause* 24.—The clause was adopted without any amendment.

12. *Clause* 25.—(1) The following amendment was accepted:—

In page 15, line 29,—

for "two years" *substitute* "one year".

(2) Decision on the following Government amendment was held over:

"(e) an officer of the Central Government, if any, nominated by that Government, in consultation with the State Bank."

Subject to above, the clause as amended was adopted.

13. *Clause* 26.—(1) The following amendment was considered:

In page 15, lines 33 and 34,—

after "under clause (b)" *insert*—

"or clause (e)".

(2) The Draftsman was directed to amend sub-clause (1) suitably in the light of the discussion on the proposed sub-clause (1) (e) of clause 25.

Subject to above, the clause as amended was adopted.

14. *Clause* 27.—(1) The following amendments were considered:

In page 16,

(i) line 11,—

after "Government" *insert* "or local authority or public corporation".

(ii) line 21,—

omit "in his own right".

(iii) *after* line 22, *insert*—

"Provided that the disqualification mentioned in clause (b) shall not apply to a director nominated under clause (e) of sub-clause (1) of section 25".

(iv) line 23,

after "Provided" *insert* "further".

The amendments at (ii) and (iv) were accepted. The draftsman was directed to redraft the other amendments in the light of the discussion in the Committee.

(2) After some discussion, item (g) of sub-clause (1) was held over.

Subject to above, the clause as amended was adopted.

15. *Clause* 28.—The following amendment was considered:

In page 17, line 23,—

after "referred to in clause (b)" *insert* "or clause (e)".

The draftsman was directed to amend the clause in the light of discussion on sub-clause 1(e) of clause 25.

16. *Clause* 29.—The clause was adopted without any amendment.

17. *Clause* 30.— The following amendment was accepted:—

In page 18, line 24,—

after "whole time officer of the" *insert* "Central Government or the".

The clause as amended was adopted.

18. The Committee decided to hear evidence on the 3rd July, 1959 at 14·00 hours instead of 10·00 hours as decided earlier.

19. The Committee then adjourned to meet again at 14·00 hours on Friday, the 3rd July, 1959.

IV

Fourth Sitting

The Committee met from 14·00 hours to 17·45 hours on Friday, the 3rd July, 1959.

PRESENT

Shri J. M. Mohamed Imam—*Chairman.*

MEMBERS

Lok Sabha

2. Shri C. Bali Reddy
3. Shri M. R. Krishna
4. Shri Shree Narayan Das
5. Dr. M. S. Aney
6. Kumari Maniben Vallabhbhai Patel
7. Major Raja Bahadur Birendra Bahadur Singh
8. Shri K. G. Wodeyar
9. Shri T. Ganapathy
10. Shri M. Palaniyandy
11. Shri Bahadur Singh
12. Dr. Pashupati Mandal
13. Shri Vishnu Sharan Dublish
14. Shri Lachhi Ram
15. Shri Panna Lal
16. Shri Kanhu Charan Jena
17. Shri K. S. Ramaswamy
18. Shri Ram Shanker Lal
19. Shri B. R. Bhagat
20. Shri Prabhat Kar
21. Shri P. K. Kodiyan
22. Shri Ram Chandra Majhi
23. H. H. Maharaja Pratap Keshari Deo
24. Shri Subiman Ghose

25. Shri Laisram Achaw Singh
26. Shri Balasaheb Salunke
27. Shri Morarji Desai

Rajya Sabha

28. Shri K. P. Madhavan Nair
29. Shri Tika Ram Paliwal
30. Shri Jaspat Roy Kapoor
31. Shri Jadavji Keshavji Modi
32. Dr. Anup Singh
33. Shri N. M. Lingam
34. Syed Mazhar Imam
35. Shri Jagannath Prasad Agarwal
36. Shri Niranjan Singh
37. Shri P. Narayanan Nair
38. Shri Harihar Patel
39. Dr. B. Gopala Reddi.

DRAFTSMAN

Shri S. K. Hiranandani, *Joint Secretary and Draftsman, Ministry of Law.*

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Shri P. C. Bhattacharyya, *Chairman, State Bank of India.*
Shri M. V. Rangachari, *Special Secretary, Ministry of Finance.*
Shri A. Baksi, *Joint Secretary, Ministry of Finance.*
Shri R. K. Seshadri, *Deputy Secretary, Ministry of Finance.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

WITNESSES

I. All India Bank Employees' Association, Delhi.

1. Shri H. L. Parvana
2. Shri H. L. Puri
3. Shri H. N. Singh.

2. The Committee heard the evidence tendered by the representatives of the above Association.

3. A verbatim record of the evidence was taken down.

4. The Committee then resumed clause-by-clause consideration of the Bill.

5. *Clause* 31.—The following revised draft of the clause was adopted:—

"31. *Removal from office of director*—(1) The State Bank may, with the approval of the Reserve Bank, for any sufficient reasons, remove from office a director nominated under clause (c) of sub-section (1) of section 25 and not being an officer of the State Bank.

(2) The Central Government may, in consultation with the State Bank, for any sufficient reason, remove from office a director nominated under clause (e) of sub-section (1) of section 25 and not being an officer of the Central Government.

(3) Any director elected under clause (d) of sub-section (1) of section 25, may be removed from office—

(a) by the State Bank with the approval of the Reserve Bank, if at the time of the removal there are no shareholders other than the State Bank registered in the books of the subsidiary bank concerned;

(b) by a resolution passed by a majority of the votes of such shareholders holding in the aggregate not less than one-half of the share capital held by all such shareholders:

Provided that if the total amount of the holdings of all shareholders other than the State Bank, registered in the books of the subsidiary bank, on the date of the resolution, is below five per cent of the total issued capital, the resolution shall not have effect unless confirmed by the State Bank.

(4) No director shall be removed from office under sub-section (1) or sub-section (2) unless he has been given an opportunity of showing cause against such removal."

6. *Clause* 32.—The clause was adopted without any amendment.

7. *Clause* 33.—The following amendments were accepted:—

(i) page 19, line 23,

after "nomination" *add* "by the State Bank".

(ii) In page 19,

after line 27, *insert*—

"(c) in the case of a director nominated under clause (e) of sub-section (1) of section 25, not being an officer of the Central Government, by nomination by that Government in consultation with the State Bank."

The draftsman was directed to provide in the proviso to sub-clause (1) for filling the vacancy from among the shareholders other than the State Bank of India.

Subject to above the clause as amended was adopted.

8. *Clause* 34.—The following amendment was accepted:—

Page 19, lines 37-38,

omit "nominated under clause (c) of sub-section (1) of section 25."

The clause as amended was adopted.

9. *Clause* 35.—The following amendment was accepted:—

Page 21, line 17,

for "is unable" *substitute* "is for any reason unable".

The clause as amended was adopted.

10. *Clauses* 36—65.—These clauses were adopted without any amendment.

11. Discussion on clauses 14, 15, 25, 26, 27, 28 and 29 was re-opened and amendments as follows were accepted:—

(i) *Clause* 14—

In page 10,

after line 35, *insert*—

"Provided that in determining the amount of compensation to be offered to the State Government of Punjab or the State Government of Bombay, the State Bank shall consult the Reserve Bank."

(ii) *Clause* 15—

In page 11, in lines 30 and 31,

for "possessing special knowledge" *substitute* "having special knowledge or experience."

(iii) *Clause* 25—

In page 15,

after line 11, *insert*—

"(e) a director, if any, to be nominated by the Central Government in consultation with the State Bank."

(iv) *Clause* 26—

In page 15, in line 35,

after "clause (c)" *insert* "or if an officer of the Central Government and nominated under clause (e)".

In page 15, in line 40,

after "clause (d)" *insert* "and a director not being an officer of the Central Government nominated under clause (e)."

(v) *Clause* 27—

In page 16,

for lines 10 and 11, *substitute*—

"(c) he has been removed or dismissed from the service of Government or a local authority or a corporation or company in which not less than fifty-one percent of the paid-up share capital is held by Government."

In page 16, in line 19,

for "the State Bank" *substitute* "the Central Government."

In page 16, in line 21,

omit "in his own right".

In page 16,

after line 22, *insert*—

"Provided that the disqualification mentioned in clause (b) shall not apply to an officer of the Central Government nominated as a director under clause (e) of sub-section (1) of section 25".

In Page 17,

for line 17, *substitute*—

"(f) if he is of unsound mind and stands so declared by a competent court."

(vi) *Clause* 28—

In page 17, in line 25,

after "clause (c)" *insert* "or to a director being an officer of the Central Government nominated under clause (e)".

(vii) *Clause* 29.—The Committee felt that General Manager other than the first general manager ought to be appointed after taking into consideration the recommendation of the Board of Directors.

The Draftsman was directed to amend sub-clause (1) accordingly.

12. *Schedules.*—The first, second and third Schedules were adopted without any amendments.

13. *Clause* 8 (*Vide* para 13 of Minutes of the Second Sitting, dated the 1st July, 1959):—

The clause was adopted without any amendment.

14. *Clause* 11 (*Vide* para 15 of Minutes of the Second Sitting, dated the 1st July, 1959).

The Clause was adopted without any amendment.

15. *Clause* 1.—The clause was adopted without any amendment.

16. *Enacting Formula and Long Title.*—Enacting Formula and the Long Title were adopted without any amendment.

17. The Committee authorised the draftsman to carry out minor changes of drafting nature in the Bill, if necessary.

18. The Committee then adjourned to meet again at 11·00 hours on Friday, the 31st July, 1959.

V

***Fifth Sitting**

The Committee met from 11.00 hours to 11.20 hours on Friday, the 31st July, 1959.

PRESENT

Shri J. M. Mohamed Imam—*Chairman.*

MEMBERS

Lok Sabha

1. Shri C. Bali Reddy
2. Shri Shree Narayan Das
3. Dr. M. S. Aney
4. Kumari Maniben Vallabhbhai Patel
5. Major Raja Bahadur Birendra Bahadur Singh
6. Shri K. G. Wodeyar
7. Shri T. Ganapathy
8. Shri Bahadur Singh
9. Dr. Pashupati Mandal
10. Shri Vishnu Sharan Dublish
11. Shri Lachhi Ram
12. Shri Panna Lal
13. Shri Kanhu Charan Jena
14. Shri K. S. Ramaswamy
15. Shri Ram Shanker Lal
16. Shri B. R. Bhagat
17. Shri Prabhat Kar
18. Shri P. K. Kodiyan
19. Shri Ram Chandra Majhi
20. H. H. Maharaja Pratap Keshari Deo
21. Shri Subiman Ghose
22. Shri Laisram Achaw Singh
23. Shri Balasaheb Salunke
24. Shri Morarji Desai.

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*Paras 2 to 4 which deal with the State Bank of India (Amendment) Bill, 1959 have not been included in this minutes.

25. Shri K. P. Madhavan Nair
26. Shri Tika Ram Paliwal
27. Shri Jaspat Roy Kapoor
28. Shri Jadavji Keshavji Modi
29. Dr. Anup Singh
30. Shri N. M. Lingam
31. Syed Mazhar Imam
32. Shri Jagannath Prasad Agarwal
33. Shri Niranjan Singh
34. Shri P. Narayanan Nair
35. Shri Harihar Patel
36. Dr. B. Gopala Reddy.

DRAFTSMEN

Shri S. K. Hiranandani, *Joint Secretary and Draftsman, Ministry of Law.*

Shri V. N. Bhatia, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri A. Baksi, *Joint Secretary, Ministry of Finance.*

Shri R. K. Seshadri, *Deputy Secretary, Ministry of Finance.*

SECRETARIAT

Shri A. L. Rai, *Under Secretary.*

* * * * * * * *

5. The Committee then took up consideration of the State Bank of India (Subsidiary Banks) Bill, 1959 as amended and adopted the same with the following further amendment:—

Clause 38.—

In sub-clause (12) *insert* at the end—

"or in the constitution of its Board of Directors or in the appointment of any person entrusted with the management of its affairs".

6. The Committee then considered the draft Report and adopted the same with necessary consequential changes with regard to clause 38.

7. The Committee decided that the evidence given before them should be laid on the Table of the House.

8. The Chairman announced that the Report would be presented to the Lok Sabha on the 3rd August, 1959, and laid on the Table of the Rajya Sabha on the 10th August, 1959.

9. The Committee authorised the Chairman and in his absence Shri Shree Narayan Das to present the Report on their behalf and to lay the evidence on the Table of the House after the presentation of the Reports.

10. The Committee authorised Shri Jaspat Roy Kapoor and in his absence Shri Niranjan Singh to lay the Report of the Committee and the evidence on the Table of the Rajya Sabha.

11. The Committee decided that Minutes of Dissent, if any, might be sent to the Lok Sabha Secretariat so as to reach them by 16·00 hours on Saturday, the 1st August, 1959.

12. The Committee then adjourned.

GIPND—LS 1—580(B) LS—6-8-59—1660.

C. B. (II) No. 87

LOK SABHA

THE STATE BANK OF INDIA (AMENDMENT) BILL, 1959

(Report of the Joint Committee)

PRESENTED ON THE 3rd AUGUST, 1959

सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI
August, 1959.

Price : 0·55 nP.

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THE STATE BANK OF INDIA (AMENDMENT) BILL, 1959.

Composition of the Joint Committee

Shri J. M. Mohamed Imam—*Chairman.*

MEMBERS

Lok Sabha

2. Shri C. Bali Reddy
3. Shri M. R. Krishna
4. Dr. Ram Subhag Singh
5. Shri Shree Narayan Das
6. Dr. M. S. Aney
7. Kumari Maniben Vallabhbhai Patel
8. Major Raja Bahadur Birendra Bahadur Singh
9. Shri Amar Singh Damar
10. Shri K. G. Wodeyar
11. Shri T. Ganapathy
12. Shri M. Palaniyandy
13. Shri Bahadur Singh
14. Shri S. R. Damani
15. Dr. Pashupati Mandal
16. Shri Vishnu Sharan Dublish
17. Shri Lachhi Ram
18. Shri Panna Lal
19. Shri Kanhu Charan Jena
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21. Shri Ram Shanker Lal
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23. Shri Prabhat Kar
24. Shri P. K. Kodiyan
25. Shri Ram Chandra Majhi
26. H.H. Maharaja Pratap Keshari Deo

27. Shri Subiman Ghose
28. Shri Laisram Achaw Singh
29. Shri Balasaheb Salunke
30. Shri Morarji Desai.

Rajya Sabha

31. Shri K. P. Madhavan Nair
32. Shri Tika Ram Paliwal
33. Shri Jaspat Roy Kapoor
34. Shrimati Pushpalata Das
35. Shri Jadavji Keshavji Modi
36. Dr. Anup Singh
37. Shri N. M. Lingam
38. Syed Mazhar Imam
39. Shri Jagannath Prasad Agrawal
40. Shri Niranjan Singh
41. Shri P. Narayanan Singh
42. Shri Harihar Patel
43. Shri Mulka Govinda Reddy
44. Dr. P. J. Thomas
45. Dr. B. Gopala Reddi

DRAFTSMEN

Shri S. K. Hiranandani, *Joint Secretary and Draftsman, Ministry of Law.*

Shri V. N. Bhatia, *Deputy Draftsman, Ministry of Law.*

SECRETARIAT

Shri S. L. Shakdher—*Joint Secretary.*
Shri A. L. Rai—*Under Secretary.*

Report of the Joint Committee

I, the Chairman of the Joint Committee to which the *Bill further to amend the State Bank of India Act, 1935, was referred, having been authorised to submit the Report on their behalf, present their Report with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 23rd February, 1959.

3. The motion for reference of the Bill to a Joint Committee of the Houses was moved by Dr. B. Gopala Reddi, Minister of Revenue and Civil Expenditure, on the 29th April, 1959, and was discussed in the Lok Sabha on the 29th and 30th April, 1959, and adopted on the 30th April, 1959 (Appendix I).

4. The Rajya Sabha discussed and concurred in the said motion on the 6th May, 1959 (Appendix II).

5. Message from the Rajya Sabha was read out to the Lok Sabha on the 9th May, 1959.

6. The Committee held four sittings in all.

7. The first sitting of the Committee was held on the 9th May, 1959, to draw up a programme of work. The Committee, at this sitting also decided to hear evidence of associations and individuals desirous of presenting their suggestions or views before the Committee. The Chairman was authorised to decide, after examining the memoranda submitted by them, as to which of the associations and individuals might be called to tender oral evidence before the Committee.

8. No memorandum was received on this Bill.

9. The Committee considered the Bill clause by clause at their Second and Third Sittings held on the 1st and 2nd July, 1959.

10. The Committee considered and adopted the Report at their Sitting held on the 31st July, 1959.

11. The observations of the Committee with regard to the change proposed in the Bill are given in the succeeding paragraph.

---

* Published in Part II, Section 2 of the Gazette of India, Extraordinary, dated the 23rd February, 1959.

12. *Clause* 6.—An amendment to sub-clause (12) has been made in order to make it clear that the sub-clause would cover a defect in the constitution of the Board of Directors or in the appointment of any person entrusted with the management of the banking institution.

13. The Joint Committee recommend that the Bill as amended be passed.

J. M. MOHAMED IMAM,
Chairman,
Joint Committee.

NEW DELHI;
The 2nd August, 1959.

Minutes of Dissent

The State Bank of India (Amendment) Bill, 1959 no doubt embodies some minor amendments and there is nothing much to differ from the Bill. We cannot, however reconcile ourselves with some of the provisions in clause (6) for reasons mentioned below.

It is said that Clause (6) seeks to amend section 35 of the State Bank of India Act, 1955, with a view to simplify the procedure for acquisition of business of other Banks by the State Bank. But we are unable to understand as to how it simplifies the procedure. To delegate authority to the Government and to say that Governmental directions will supersede and take precedence over statutory provisions and thus matters will be simplified can hardly be the proper way of thinking. It contravenes the concept of rule of law and merely gives rise to complications.

We are also unable to agree with sub-clause (8). An employee may be circumstanced in so many ways to accept even unsatisfactory terms and conditions of service. It is therefore necessary to guarantee in the provision itself to the effect that the terms and conditions of employment offered by the State Bank shall not be inferior in any manner to the terms and conditions of service enjoyed by the employee in the Bank he was previously working and that continuity of service will be recognised in case of his accepting employment.

Since this clause deals with acquisition of business of other Banks by the State Bank, we do not see any reason as to why the terms and conditions prescribed for employees of the State Bank should not be offered and there need be a discriminatory treatment.

Subject to the above observations we concur with the Joint Committee Report.

NEW DELHI;
Dated the 31*st July*, 1959.

HARIHAR PATEL.
P. K. DEO.

Bill No. 11B of 1959.

THE STATE BANK OF INDIA (AMENDMENT) BILL, 1959

(AS AMENDED BY THE JOINT COMMITTEE)

(Words underlined indicate the amendment suggested by the Committee)

A

BILL

further to amend the State Bank of India Act, 1955.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. This Act may be called the State Bank of India (Amendment) Act, 1959. Short title.

23 of 1955.

2. In section 22 of the State Bank of India Act, 1955 (hereinafter referred to as the principal Act),— Amendment of section 22.

(*a*) in clause (*d*) of sub-section (*1*), for the words "or managing director", the words ", managing director, or legal or technical adviser" shall be substituted;

(*b*) after sub-section (*3*), the following sub-section shall be inserted, namely:—

'(*4*) In this section,—

(*a*) "banking company" has the same meaning as in the Banking Companies Act, 1949;

10 of 1949.

(*b*) "manager" means the chief executive officer, by whatever name called, of a banking company;

(*c*) "private company" has the same meaning as in the Companies Act, 1956.'.

1 of 1956.

Amendment of section 23.

3. In section 23 of the principal Act, the proviso shall be omitted.

Amendment of section 33.

4. In section 33 of the principal Act,—

(*a*) in sub-clause (*d*) of clause (*i*), for the words "under any law for the time being in force in India", the words "by or under any law for the time being in force in India other than companies with limited liability" shall be substituted.

(*b*) for clause (*xii*), the following clauses shall be substituted, namely:—

"(*xii*) the transacting of pecuniary agency business on commission;

(*xiia*) the entering into contracts of indemnity, surety-ship or guarantee with specific security or otherwise;";

(*c*) after clause (*xx*), the following clause shall be inserted, namely:—

"(*xxa*) notwithstanding anything to the contrary contained in any other law for the time being in force, the establishment and maintenance of superannuation pension, provident or other funds for the benefit of the employees of the State Bank or dependents of such employees or for the purposes of the State Bank, and the granting of superannuation allowances, annuities and pensions payable out of any such fund;".

Amendment of section 34.

5. In section 34 of the principal Act, for sub-sections (*3*) and (*4*), the following sub-section shall be substituted, namely:—

"(*3*) The State Bank shall not discount or purchase or advance or lend or open cash credits on the security of,—

(*a*) any negotiable instrument of any individual or firm payable at the place where it is presented which does not carry on it the several responsibilities of at least two persons or firms unconnected with each other in general partnership;

(*b*) any negotiable instrument or security (not being an instrument or security in which a trustee may invest trust money under section 20 of the Indian Trusts Act, 1882, or the corresponding provision of the law for the time being in force in any country where the State Bank has a branch) which does not mature within— 2 of 1882.

(*i*) fifteen months from the date of such discount, purchase, loan, advance or opening of cash credits, if

the instrument or security is drawn or issued for the purpose of financing seasonal agricultural operations; and

(*ii*) six months from the date aforesaid if the instrument or security is drawn or issued for any other purpose.".

Amendment of section 35.

6. In section 35 of the principal Act, for sub-sections (*2*), (*3*) and (*4*), the following sub-sections shall be substituted, namely:—

'(*2*) The terms and conditions relating to such acquisition, if agreed upon by the Central Board of the State Bank and the directorate or management of the banking institution concerned and approved by the Reserve Bank, shall be submitted to the Central Government for its sanction and that Government may by order in writing (hereafter in this section referred to as the order of sanction) accord its sanction thereto.

(*3*) Notwithstanding anything contained in this Act or any other law for the time being in force or any instrument regulating the constitution of the banking institution concerned, the terms and conditions as sanctioned by the Central Government shall come into effect on the date specified by the Central Government in this behalf in the order of sanction and be binding upon the State Bank and the banking institution concerned as well as upon the shareholders (or, as the case may be, proprietors) and creditors of that banking institution.

(*4*) If for any reason the terms and conditions cannot come into effect on the date specified in the order of sanction, the Central Government may fix another suitable date for that purpose.

(*5*) On the date on which the terms and conditions as aforesaid come into effect the business and the assets and liabilities of the banking institution concerned as covered by the acquisition shall, by virtue, and in accordance with the provisions, of the order of sanction stand transferred to, and become respectively the business and the assets and liabilities of, the State Bank.

(*6*) The consideration for the acquisition of the business and the assets and liabilities of any banking institution under this section may, if so agreed upon, be paid either in cash or by allotment of shares in the capital of the State Bank or partly in cash and partly by allotment of shares, and the State Bank may, for the purpose of any such allotment, increase, subject to the other provisions contained in this Act relating to the

increase of capital, the capital of the State Bank by the issue of such number of shares as may be determined by the State Bank.

(7) Any business acquired under this section shall thereafter be carried on by the State Bank in accordance with the provisions of this Act, subject to such exemptions or modifications as the Central Government may by notification in the Official Gazette, make in this behalf in consultation with the Reserve Bank:

Provided that no such exemption or modification shall be made so as to have effect for a period of more than seven years from the date of acquisition.

(8) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law or in any agreement for the time being in force, on the acquisition of the business and the assets and liabilities of any banking institution under this section, no officer or other employee of that banking institution shall be entitled to any compensation to which he may be entitled under that Act or that other law or that agreement and no claim in respect of such compensation shall be entertained by any court, tribunal or other authority, if on his having accepted in writing an offer of employment by the State Bank on the terms and conditions proposed by it he has been employed in accordance with such terms and conditions. 14 of 1947

(9) The Central Government may, if it considers necessary or expedient in the case of any banking institution in relation to which an order of sanction has been made under this section, appoint, whether before or after the coming into effect of the terms and conditions relating to the acquisition of the business and the assets and liabilities of that banking institution, a suitable person to take over the management of that banking institution for the purposes of winding up its affairs and distributing its assets, and the expenditure incurred in connection with such management (including the remuneration for the person so appointed and his staff, if any) shall be paid out of the assets of the banking institution or by the State Bank as the Central Government may direct.

(10) Simultaneously with the appointment of a suitable person to take over the management of any banking institution under sub-section (9) or immediately thereafter, the Central Government shall issue directions to be followed by that person

in the management of that banking institution for the purposes aforesaid and thereupon—

1 of 1956. 10 of 1949.

(*a*) the provisions of the Companies Act, 1956, or the Banking Companies Act, 1949, or any other law for the time being in force or any instrument having effect by virtue of any such Act or law, in so far as they are inconsistent with such directions, shall cease to apply to or in relation to that banking institution;

(*b*) all persons in charge of the management, including any person holding office as manager or director of the banking institution immediately before the issue of such directions, shall be deemed to have vacated their offices as such; and

(*c*) the person appointed to take over the management of the banking institution shall in accordance with those directions take all such steps as may be necessary to facilitate the winding up of its affairs and distribution of its assets.

(*11*) The Central Government, when satisfied that nothing further remains to be done in order to wind up the affairs of any such banking institution, may by another order in writing direct that as from such date as may be specified therein the banking institution shall stand dissolved and thereupon any such direction shall have effect notwithstanding anything to the contrary contained in any other law.

(*12*) No action under this section shall be questioned on the ground merely of any defect in the constitution of any banking institution in relation to which such action has been taken or in the constitution of its Board of Directors or in the appointment of any person entrusted with the management of its affairs.

(*13*) In this section "banking institution" includes any individual or any association of individuals (whether incorporated or not, or whether a department of Government or a separate institution), carrying on the business of banking.'.

Amendment of section 36.

7. In section 36 of the principal Act, after sub-section (*3*), the following sub-section shall be inserted, namely:—

"(*4*) No amount applied for any of the purposes specified in sub-section (*2*) shall, for the purposes of the Indian Income-tax Act, 1922, be treated as income, profits or gains of the State Bank.".

11 of 1922.

Amendment of section 41.

8. In section 41 of the principal Act,—

(*a*) in sub-section (*1*), for the words, brackets and figures "sub-section (*1*) of section 144 of the Indian Companies Act,

1913", the words and figures "section 226 of the Companies Act, 1956" shall be substituted; 7 of 1913. 1 of 1956.

(*b*) in sub-section (*5*), for the word "first", the word "annual" shall be substituted; L

(*c*) in clause (*d*) of sub-section (*7*), for the words "profit and loss" occurring for the second time, the words "profit or loss" shall be substituted.

Amendment of section 42.

9. In section 42 of the principal Act, in sub-section (*1*), for the word "hereinafter", the words "in this Act" shall be substituted.

Amendment of section 50.

10. In section 50 of the principal Act, for clause (*o*) of sub-section (*2*), the following clause shall be substituted, namely:—

"(*o*) the establishment and maintenance of superannuation pension, provident or other funds for the benefit of the employees of the State Bank or of the dependants of such employees or for the purposes of the State Bank, and the granting of superannuation allowances, annuities and pensions payable out of any such fund;".

APPENDIX I

(*Vide* para 3 of the Report)

Motion in the Lok Sabha for reference of the Bill to Joint Committee

"That the Bill further to amend the State Bank of India Act, 1955, be referred to a Joint Committee of the Houses consisting of 45 members; 30 from this House, namely:—

1. Shri C. Bali Reddy
2. Shri M. R. Krishna
3. Dr. Ram Subhag Singh
4. Shri Shree Narayan Das
5. Dr. M. S. Aney
6. Kumari Maniben Vallabhbhai Patel
7. Major Raja Bahadur Birendra Bahadur Singh
8. Shri Amar Singh Damar
9. Shri K. G. Wodeyar
10. Shri T. Ganapathy
11. Shri N. Palaniyandy
12. Shri Bahadur Singh
13. Shri S. R. Damani
14. Dr. Pashupati Mandal
15. Shri Vishnu Sharan Dublish
16. Shri Lachhi Ram
17. Shri Panna Lal
18. Shri Kanhu Charan Jena
19. Shri K. S. Ramaswamy
20. Shri Ram Shanker Lal
21. Shri B. R. Bhagat
22. Shri Prabhat Kar
23. Shri P. K. Kodiyan
24. Shri J. M. Mohamed Imam
25. Shri Ram Chandra Majhi

26. H. H. Maharaja Pratap Keshari Deo
27. Shri Subiman Ghose
28. Shri Laisram Achaw Singh
29. Shri Balasaheb Salunke, and
30. Shri Morarji Desai

and 15 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the first day of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee."

APPENDIX II

(*Vide* para 4 of the Report)

Motion in the Rajya Sabha

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill further to amend the State Bank of India Act, 1955, and resolves that the following Members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

1. Shri K. P. Madhavan Nair
2. Shri Tika Ram Paliwal
3. Shri Jaspat Roy Kapoor
4. Shrimati Pushpalata Das
5. Shri Jadavji Keshavji Modi
6. Dr. Anup Singh
7. Shri N. M. Lingam
8. Syed Mazhar Imam
9. Shri Jagannath Prasad Agrawal
10. Shri Niranjan Singh
11. Shri Perath Narayanan Nair
12. Shri Harihar Patel
13. Shri Mulka Govinda Reddy
14. Dr. P. J. Thomas
15. Dr. B. Gopala Reddi."

APPENDIX III

MINUTES OF THE SITTINGS OF THE JOINT COMMITTEE ON THE STATE BANK OF INDIA (AMENDMENT) BILL, 1959.

I

First Sitting

The Committee met from 15:00 hours to 15·30 hours on Saturday, the 9th May, 1959.

PRESENT

Shri J. M. Mohamed Imam—*Chairman.*

MEMBERS

Lok Sabha

1. Dr. Ram Subhag Singh
2. Shri Shree Narayan Das
3. Kumari Maniben Vallabhbhai Patel
4. Shri Amar Singh Damar
5. Shri K. G. Wodeyar
6. Shri T. Ganapathy
7. Shri M. Palaniyandy
8. Shri Bahadur Singh
9. Dr. Pashupati Mandal
10. Shri Vishnu Sharan Dublish
11. Shri Panna Lal
12. Shri Kanhu Charan Jena
13. Shri Ram Shanker Lal
14. Shri B. R. Bhagat
15. Shri Prabhat Kar
16. Shri P. K. Kodiyan
17. Shri Ram Chandra Majhi
18. Shri Subiman Ghose
19. Shri Morarji Desai.

Rajya Sabha

20. Shri K. P. Madhavan Nair
21. Shri Tika Ram Paliwal
22. Shri Jaspat Roy Kapoor
23. Shri N. M. Lingam
24. Shri Jagannath Prasad Agrawal
25. Shri Niranjan Singh
26. Shri P. Narayanan Nair
27. Shri Harihar Patel
28. Shri Mulka Govinda Reddy
29. Dr. P. J. Thomas
30. Dr. B. Gopala Reddy.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri A. Baksi, *Joint Secretary, Ministry of Finance.*

Shri R. K. Seshadri, *Deputy Secretary, Ministry of Finance.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee held a discussion about their future programme of sittings.

3. The Committee considered whether any evidence should be taken by them and whether it was necessary to issue a press communique advising associations and individuals desirous of presenting their suggestions or views before the Committee in respect of the Bill to submit written memoranda thereon.

4. It was decided that a press communique might be issued advising associations, public bodies and individuals who are desirous of presenting their suggestions or views or give evidence before the Committee in respect of the Bill to send written memoranda thereon to the Lok Sabha Secretariat by the 10th June, 1959.

5. The Committee authorised the Chairman to decide after examining the memoranda as to which of the Associations, public bodies etc. might be called upon to give oral evidence before the Committee.

6. The Committee desired that copies of the State Bank of India Act, 1955 might be circulated to the Members of the Committee.

7. The Committee further decided that if any member desired any further literature on the subject he might write to the Lok Sabha Secretariat for its supply, if available.

8. The Committee decided to hold their future sittings from 1st July, 1959 onwards.

9. The Committee then adjourned to meet again at 10.00 hours on Wednesday, the 1st July, 1959.

II

*Second Sitting

The Committee met from 10.00 hours to 13.04 hours on Wednesday, the 1st July, 1959.

PRESENT

Shri J. M. Mohamed Imam—*Chairman*

MEMBERS

Lok Sabha

2. Shri C. Bali Reddy
3. Dr. Ram Subhag Singh
4. Shri Shree Narayan Das
5. Dr. M. S. Aney
6. Kumari Maniben Vallabhbhai Patel
7. Major Raja Bahadur Birendra Bahadur Singh
8. Shri Amar Singh Damar
9. Shri K. G. Wodeyar
10. Shri T. Ganapathy
11. Shri Bahadur Singh
12. Dr. Pashupati Mandal
13. Shri Vishnu Sharan Dublish
14. Shri Lachhi Ram
15. Shri Panna Lal
16. Shri Kanhu Charan Jena
17. Shri Ram Shanker Lal
18. Shri B. R. Bhagat
19. Shri Ram Chandra Majhi
20. Shri Subiman Ghose
21. Shri Laisram Achaw Singh
22. Shri Morarji Desai.

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*Paras 2 to 4 and 11 to 17 which relate to the State Bank of India (Subsidiary Banks) Bill, 1959 have not been included in these Minutes.

23. Shri K. P. Madhavan Nair
24. Shri Tika Ram Paliwal
25. Shri Jaspat Roy Kapoor
26. Shrimati Pushpalata Das
27. Shri Jadavji Keshavji Modi
28. Dr. Anup Singh
29. Shri N. M. Lingam
30. Syed Mazhar Imam
31. Shri Jagannath Prasad Agrawal
32. Shri Niranjan Singh
33. Shri P. Narayanan Nair
34. Shri Harihar Patel
35. Dr. B. Gopala Reddy.

DRAFTSMAN

Shri S. K. Hiranandani, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri P. C. Bhattacharyya, *Chairman, State Bank of India.*

Shri M. V. Rangachari, *Special Secretary, Ministry of Finance.*

Shri A. Baksi, *Joint Secretary, Ministry of Finance.*

Shri R. K. Seshadri, *Deputy Secretary, Ministry of Finance.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

* * * * *

5. The Committee, then decided to take up the two Bills in the following order:—

(i) The State Bank of India (Amendment) Bill, 1959.

(ii) The State Bank of India (Subsidiary Banks) Bill, 1959.

6. The Committee took up clause by clause consideration of the State Bank of India (Amendment) Bill, 1959.

7. *Clauses* 1—3.—These clauses were adopted without any amendment.

8. *Clause* 4.—Consideration of this clause was held over.

9. *Clauses* 5—10.—These clauses were adopted without any amendment.

10. *Enacting Formula and Long Title.*—Enacting Formula and the Long Title were adopted without any amendment.

* * * *

18. The Committee decided to sit from 14.00 hours to 19.00 hours on the 2nd July, 1959.

19. The Committee then adjourned.

III

*Third Sitting

The Committee met from 14.00 hours to 19.03 hours on Thursday, the 2nd July, 1959.

PRESENT

Shri J. M. Mohamed Imam—*Chairman.*

MEMBERS

Lok Sabha

2. Shri C. Bali Reddy
3. Shri M. R. Krishna
4. Dr. Ram Subhag Singh
5. Shri Shree Narayan Das
6. Dr. M. S. Aney
7. Kumari Maniben Vallabhbhai Patel
8. Major Raja Bahadur Birendra Bahadur Singh
9. Shri Amar Singh Damar
10. Shri K. G. Wodeyar
11. Shri T. Ganapathy
12. Shri M. Palaniyandy
13. Shri Bahadur Singh
14. Dr. Pashupati Mandal
15. Shri Vishnu Sharan Dublish
16. Shri Lachhi Ram
17. Shri Panna Lal
18. Shri Kanhu Charan Jena
19. Shri K. S. Ramaswamy
20. Shri Ram Shanker Lal
21. Shri B. R. Bhagat
22. Shri P. K. Kodiyan
23. Shri Ram Chandra Majhi
24. H. H. Maharaja Pratap Keshari Deo

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*Paras 3 to 18, which relate to the State Bank of India (Subsidiary Banks) Bill, 1959 have not been included in these Minutes.

25. Shri Subiman Ghose
26. Shri Laisram Achaw Singh
27. Shri Morarji Desai.

Rajya Sabha

28. Shri K. P. Madhavan Nair
29. Shri Tika Ram Paliwal
30. Shri Jaspat Roy Kapoor
31. Shri Jadavji Keshavji Modi
32. Dr. Anup Singh
33. Shri N. M. Lingam
34. Syed Mazhar Imam
35. Shri Jagannath Prasad Agrawal
36. Shri Niranjan Singh
37. Shri P. Narayanan Nair
38. Shri Harihar Patel
39. Dr. B. Gopala Reddi.

DRAFTSMEN

Shri S. K. Hiranandani, *Joint Secretary and Draftsman Ministry of Law.*

Shri V. N. Bhatia, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri P. C. Bhattacharyya, *Chairman, State Bank of India.*

Shri M. V. Rangachari, *Special Secretary, Ministry of Finance.*

Shri A. Baksi, *Joint Secretary, Ministry of Finance.*

Shri R. K. Seshadri, *Deputy Secretary, Ministry of Finance.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee took up consideration of Clause 4 of the State Bank of India (Amendment) Bill, which had been held over at their second sitting held on the 1st July, 1959 (*vide* para 8 of the minutes of the Second Sitting).

The clause was adopted without any amendment.

* * * * *

19. The Committee then adjourned to meet again at 14·00 hours on Friday, the 3rd July, 1959.

V

*Fifth Sitting

The Committee met from 11.00 hours to 11.20 hours on Friday, the 31st July, 1959.

PRESENT

Shri J. M. Mohamed Imam—*Chairman*

MEMBERS

Lok Sabha

1. Shri C. Bali Reddy
2. Shri Shree Narayan Das
3. Dr. M. S. Aney
4. Kumari Maniben Vallabhbhai Patel
5. Major Raja Bahadur Birendra Bahadur Singh
6. Shri K. G. Wodeyar
7. Shri T. Ganapathy
8. Shri Bahadur Singh
9. Dr. Pashupati Mandal
10. Shri Vishnu Sharan Dublish
11. Shri Lachhi Ram
12. Shri Panna Lal
13. Shri Kanhu Charan Jena
14. Shri K. S. Ramaswamy
15. Shri Ram Shanker Lal
16. Shri B. R. Bhagat
17. Shri Prabhat Kar
18. Shri P. K. Kodiyan
19. Shri Ram Chandra Majhi
20. H. H. Maharaja Pratap Keshari Deo
21. Shri Subiman Ghose
22. Shri Laisram Achaw Singh

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*Minutes of the fourth sitting, paras 5 to 7 and parts of paras 9 and 10 which deal with the State Bank of India (Subsidiary Banks) Bill, 1959 have not been included in this Appendix.

23. Shri Balasaheb Salunke
24. Shri Morarji Desai

Rajya Sabha

25. Shri K. P. Madhavan Nair
26. Shri Tika Ram Paliwal
27. Shri Jaspat Roy Kapoor
28. Shri Jadavji Keshavji Modi
29. Dr. Anup Singh
30. Shri N. M. Lingam
31. Syed Mazhar Imam
32. Shri Jagannath Prasad Agrawal
33. Shri Niranjan Singh
34. Shri P. Narayanan Nair
35. Shri Harihar Patel
36. Dr. B. Gopala Reddi.

DRAFTSMEN

Shri S. K. Hiranandani, *Joint Secretary and Draftsman, Ministry of Law.*

Shri V. N. Bhatia, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri A. Baksi, *Joint Secretary, Ministry of Finance.*

Shri R. K. Seshadri, *Deputy Secretary, Ministry of Finance.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary*

2. The Committee reopended discussion on clause 6 of the State Bank of India (Amendment) Bill, 1959. The following amendment was accepted:—

Clause 6.—

In sub-clause (12) *insert* at the end—

"or in the constitution of its Board of Directors or in the appointment of any person entrusted with the management of its affairs"

3. The Bill as amended was adopted.

4. The Committee then considered the draft Report and adopted the same with necessary consequential changes arising out of acceptance of amendment to clause 6.

* * * * *

8. The Chairman announced that the Report would be presented to the Lok Sabha on the 3rd August, 1959 and laid on the Table of the Rajya Sabha on the 10th August, 1959.

9. The Committee authorised the Chairman and in his absence Shri Shree Narayan Das to present the Report on their behalf.****

10. The Committee authorised Shri Jaspat Roy Kapoor and in his absence Shri Niranjan Singh to lay the Report of the Committee.****. on the Table of the Rajya Sabha.

11. The Committee decided that Minutes of Dissent, if any, might be sent to the Lok Sabha Secretariat so as to reach them by 16·00 hours on Saturday, the 1st August, 1959.

12. The Committee then adjourned.

C. B. (II) No. 83

LOK SABHA

THE BANKING COMPANIES (AMENDMENT) BILL, 1959

(Report of the Joint Committee)

PRESENTED ON THE 3RD AUGUST, 1959

LOK SABHA SECRETARIAT
NEW DELHI
August, 1959
Price 0.75 *n P.*

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THE BANKING COMPANIES (AMENDMENT) BILL, 1959

Composition of the Joint Committee

Shri C. R. Pattabhi Raman—*Chairman*

MEMBERS

Lok Sabha

2. Shri S. Osman Ali Khan
3. Shrimati Sangam Laxmi Bai
4. Shri Kailash Pati Sinha
5. Shri Bhola Raut
6. Shri Chandra Shankar
7. Shri Suriya Prasad
8. Shri Liladhar Joshi
9. Shri P. Subbiah Ambalam
10. Shri S. M. Siddiah
11. Shri Hem Raj
12. Shri Harish Chandra Mathur
13. Pandit Krishna Chandra Sharma
14. Seth Achal Singh
15. Shri Raja Ram Misra
16. Shri S. Hansda
17. Shri Prafulla Chandra Borooah
18. Shri Umrao Singh
19. Shri Kamal Krishna Das
20. Shri B. R. Bhagat
21. Shri K. G. Deshmukh
22. Shri V. P. Nayar
23. Shri Chintamani Panigrahi
24. Shri Khushwaqt Rai
25. Shri Motisinh Bahadursinh Thakore
26. Shri Karsandas Parmar
27. Shri Premji R. Assar
28. Shri Prakash Vir Shastri

29. Shri S. M. Banerjee
30. Shri Morarji Desai

Rajya Sabha

31. Shri Tarkeshwar Pande
32. Shri P. S. Rajagopal Naidu
33. Shrimati Sharda Bhargava
34. Shri M. Govinda Reddy
35. Shri Lavji Lakhamshi
36. Shri Mahesh Saran
37. Shri T. D. Pustake
38. Shri Nawab Singh Chauhan
39. Shri V. C. Kesava Rao
40. Shri M. D. Tumpalliwar
41. Dr. Raj Bahadur Gour
42. Shri Rajendra Pratap Sinha
43. Shri Kamta Singh
44. Shri A. Chakradhar
45. Dr. B. Gopala Reddi.

DRAFTSMEN

Shri S. K. Hiranandani, *Joint Secretary and Draftsman, Ministry of Law.*

Shri V. N. Bhatia, *Deputy Draftsman, Ministry of Law.*

SECRETARIAT

Shri P. K. Patnaik—*Under Secretary.*

Report of the Joint Committee

I, the Chairman of the Joint Committee to which a *Bill further to amend the Banking Companies Act, 1949, was referred, having been authorised to submit the Report on their behalf, present their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 23rd February, 1959. The motion for reference of the Bill to a Joint Committee of the Houses was moved by Shri B. Gopala Reddi, Minister of Revenue and Civil Expenditure on the 30th April, 1959 and was discussed in the Lok Sabha and adopted on the same day (Appendix I).

3. The Rajya Sabha discussioned and concurred in the said motion on the 6th May, 1959 (Appendix II).

4. The message from the Rajya Sabha was read out to the Lok Sabha on the 9th May, 1959.

5. The Committee held four sittings in all.

6. The first sitting of the Committee was held on the 9th May, 1959, to draw up a programme of work. The Committee at this sitting decided to hear the evidence of associations, public bodies and individuals desirous of presenting their suggestions or views before the Committee. The Chairman was authorised to decide, after examining the memoranda submitted by them, as to which of the associations, public bodies etc. should be called to tender oral evidence before the Committee.

7. Four memoranda or representations on the Bill were received by the Committee from different associations, public bodies and individuals as mentioned in Appendix III.

8. At the second sitting of the Committee held on the 13th July, 1959, the Committee heard the evidence tendered by the two associations specified in Appendix IV.

The Committee have decided that the whole of the evidence tendered before them may be laid on the Table of the House.

The Committee have also decided that the memoranda submitted by the associations that tendered evidence before them may be appended to the Evidence volume and laid on the Table of the House.

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*Published in Part II, Section 2 of the Gazette of India, Extraordinary, dated the 23rd February, 1959.

9. The Committee considered the Bill clause by clause at their third sitting held on the 14th July, 1959.

10. The Committee considered and adopted the Report at their fourth sitting held on the 15th July, 1959.

11. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

12. *Clause* 2.—*Item* (*i*).—The Committee feel that the definition of "branch" or "branch office" should, except for the purposes of section 35, be restricted to only such place of business where deposits are received, cheques cashed or moneys lent.

The item has been amended accordingly.

13. *Clause* 6.—(1) *Sub-clause* (*a*), *Item* (*ii*).—The Committee feel that the Reserve Bank should have power to grant extension upto nine months in suitable cases.

The proviso has been amended accordingly.

(2) *Sub-clause* (*b*).—The Committee feel that the Reserve Bank should have power to remove any chairman or director or manager or chief executive officer of a banking company, if such person has been found by any tribunal or other authority to have contravened the provisions of any law and the Reserve Bank is satisfied that the association of such person with the banking company is undesirable. The Committee further feel that the Reserve Bank should also have the power to prohibit such person from taking part in the management of any banking company for such period not exceeding 5 years as the Reserve Bank thinks fit.

Sub-clause (b) has accordingly been inserted.

14. *Clause* 10.—The Committee feel that banking companies should be permitted to declare dividends without writing off depreciation, if any, in the value of their investments in shares, debentures and bonds or the losses on account of bad debts, if adequate provision has been made therefor to the satisfaction of the auditor.

The clause has been recast accordingly.

15. *Clause* 12.—The Committee consider that as in the case of opening of Branches, a banking company should obtain the permission of the Reserve Bank before forming a subsidiary for the purpose of carrying on banking business exclusively outside India.

The clause has been recast accordingly.

16. *Clause* 13.—The amendments made are intended to make it clear that clauses (a) and (b) of sub-section (3) of section 22 are also applicable to a banking company which has not yet commenced banking business at the time of the grant of a license.

17. *Clause* 14.—The amendment is of a consequential nature and has been made in order to bring this clause into conformity with the amendments made in Clause 2(i).

18. *Clause* 20.—The Committee consider that in the case of banking companies incorporated in India, the Reserve Bank should have the power to inspect subsidiaries of such companies formed for the purpose of carrying on the business of banking exclusively outside India. Item (ii) of the Explanation has been suitably amended to provide for this.

19. *Clause* 33.—In the opinion of the Committee, the penalty provided in sub-section (4) of section 46 as substituted by this clause is not adequate. The maximum fine has, therefore, been raised from five hundred rupees to two thousand rupees and from fifty rupees to one hundred rupees. The Committee feel that the penalty provided in sub-section (2) of section 46 should be correspondingly enhanced.

The clause has been amended accordingly.

20. *Clause* 35.—The Committee consider that the Reserve Bank should be mentioned in the proposed section 49A of the principal Act since the Reserve Bank also accepts deposits withdrawable by cheques.

Necessary insertion has, therefore, been made in this clause.

21. The Joint Committee recommend that the Bill as amended be passed.

NEW DELHI;
The 15th July, 1959.

C. R. PATTABHI RAMAN,
Chairman,
Joint Committee.

Minutes of Dissent

We regret to have to append this Minute of dissent.

At the outset, we must say, that the amending Bill itself is extremely inadequate to enable the Government of India to regulate the banking industry in such a way as to make it function in a manner necessary in a developing economy, with a Socialist Pattern as the goal. The present Bill is a first major amending Bill of its kind seeking to make substantial amendments to the original Bill passed ten years ago *i.e.* in 1949, when the concept of the role of banking in our economy was different from what it is today. We fail to understand why Government contended themselves in bringing forward a Bill of this kind which does not enable them to control the industry to the extent necessary in the present context. Even as regards the provisions embodied in the Bill, it is clear to us that some at least are retrograde in character and in the interest of the industry and the country ought not to have been embodied. We take the stand and feel fully justified in doing so, having regard to the attitude of the Government in regard to the several amendments which we proposed. We regret that we were unable to convince the majority of our colleagues in the Committee as regards the major amendments which we proposed. We are giving below our views on the more important points arising out of the Bill as also relating to the report.

As regards clause 6 of the Bill we are opposed to the inclusion of Cashier-Contractor in sub-clause (b) of the proviso. Firstly, overwhelming majority of the banks do not employ this Cashier-Contractor. Secondly, the system of employing Cashier-Contractor operates against the interest of the industry and breeds corruption. A Cashier-Contractor, as we understand, is employed by a bank on the basis of commission. He guarantees operational losses to the bank and in return the bank employs his nominees in the cash department. To the best of our knowledge, no operational loss is paid by the Cashier-Contractor from his pocket. On the other hand, it is recovered from the employees by the Cashier-Contractor where he exists and by the bank where he does not. Cashier-Contractor is paid the commission and the employee is to bear the loss. Apart from this unilateral benefit to the Cashier-Contractor, the Cashier-Contractor himself becomes a vehicle of fraud and mal-practices in the bank

concerned. Usually, he is a businessman and by virtue of his being a Cashier-Contractor he commands more influence with the authorities of the bank and their advances. Moreover, the Godown-Keeper as an employee of the Cash Department is a nominee of the Cashier-Contractor and is, therefore, subject to his control. This position is utilised and frauds are committed. It is also reported that bribes are taken by the Cashier-Contractor from the prospective employees. Instead of taking steps to abolish this already dying system the amending Bill is giving a premium to the employment of this Cashier-Contractor.

Sub-Clause (2) of Clause 6 seeks to allow the Contractor of any Banking Company to become a Contractor of any bank registered under Sec. 25 of the Companies Act, 1956. The Banks registered under this section are meant "for promoting commerce, art, science, religion, charity or any other useful object." Even though the profits of these companies are not to be distributed as dividends and are instead intended to be employed in promoting these objects; it is a fact that even these companies do business in order to earn profits. It is, therefore, objectionable that a banking company and such companies under Sec. 25 of the Companies Act be locked together through the same person operating in both. We, therefore, seriously object to this amendment and seek its omission.

Incidentally, while we welcome sub-clause (a) of the proviso that is sought to be added to sub-section (1) of the principal Act (Clause 6 of the Bill), we plead that it be given retrospective effect.

Coming to Clause 10 of the Bill which seeks to amend section 15 of the Principal Act, we feel this is a retrograde step permitting banking companies a greater scope for distributing dividends and bonus shares. A banking company is radically different from an industrial establishment. The shareholders of a banking company hardly own two to three percent of the working capital of the bank. The bulk of the funds on which a banking company operates and which bring so called profits to the banking companies come from the depositors who have no say in the management of the banking company. It is, therefore, imperative that dividends are restricted rather than allowing greater scope for distributing dividends and bonus shares. Moreover, profit of a banking company could go to enhance the liquid reserves of the bank and be utilised for financing our developing economy instead of being distributed to this small group of shareholders. We do not see any reason for enlarging the scope of distributing dividends, when the trend in the country is of rising profits in the banks.

We very strongly feel that this amendment should be rejected by the Houses of Parliament and the issue of bonus shares should be prohibited. We regret that the amending Bill is not only allowing increased dividends for the few but is also seeking to regularise such irregularly distributed dividends in the past through clause 3 of the amending Bill.

Then we come to the amendment which seeks to provide for winding up a banking company. Here, we wish to emphatically point out that a banking company is established only after the Reserve Bank approves its establishment. The Reserve Bank regularly inspects the banking company and guides its operations. We, therefore, fail to understand why the depositors are to unilaterally suffer if a bank is wound up. We, therefore, propose that just as Government and the Reserve Bank have been empowered to permit the establishment of a bank and supervise its operations they should have statutory powers to amalgamate banks working unsatisfactorily sufficiently in time and not allow them to degenerate further and create a ground for their winding up. We insist on this also because at every stage it is the Reserve Bank which exercises control over the banks and which is in know of the things happening in the banks and the depositors are kept all along in the dark. In fact, the depositors are attracted to the bank because of the confidence arising out of the control of the Reserve Bank.

We commend our views to both the Houses of Parliament.

S. M. BANERJEE.
V. P. NAYAR.
CHINTAMANI PANIGRAHI.
RAJ BAHADUR GOUR.

NEW DELHI;
Dated the 15th July, 1959.

Bill No. 12B of 1959

THE BANKING COMPANIES (AMENDMENT) BILL, 1959

(AS AMENDED BY THE JOINT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions)

A

BILL

further to amend the Banking Companies Act, 1949.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Banking Companies (Amendment) Act, 1959.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

10 of 1949.

Amendment of section 5.

2. In section 5 of the Banking Companies Act, 1949 (hereinafter referred to as the principal Act), in sub-section (*1*),—

(*i*) after clause (*c*), the following clause shall be inserted, namely:—

'(cc) "branch" or "branch office", in relation to a banking company, means any branch or branch office, whether called a pay office or sub-pay office or by any other name, at which deposits are received, cheques cashed or moneys lent, and for the purposes of section 35 includes any place of business where any other form of business referred to in sub-section (*1*) of section 6 is transacted;';

(*ii*) for clause (*d*), the following clause shall be substituted, namely:—

'(*d*) "company" means any company as defined in section 3 of the Companies Act, 1956; and includes a foreign company within the meaning of section 591 of that Act;'; 1 of 1956.

(*iii*) for clause (*h*), the following clause shall be substituted, namely:—

'(*h*) "managing director", in relation to a banking company, means a director who, by virtue of an agreement with the banking company or of a resolution passed by the banking company in general meeting or by its Board of directors or, by virtue of its memorandum or articles of association, is entrusted with the management of the whole, or substantially the whole of the affairs of the company, and includes a director occupying the position of a managing director, by whatever name called;';

(*iv*) clauses (*i*), (*k*) and (*m*) shall be omitted;

(*v*) after clause (*n*), the following clause shall be inserted, namely:—

"(*o*) all other words and expressions used herein but not defined and defined in the Companies Act, 1956, shall have the meanings respectively assigned to them in that Act.". 1 of 1956.

Insertion of new section 5A.

3. In Part I of the principal Act, after section 5, the following section shall be inserted, namely:—

Act to override memorandum, articles, etc.

"5A. Save as otherwise expressly provided in this Act,—

(*a*) the provisions of this Act shall have effect notwithstanding anything to the contrary contained in the memorandum or articles of a banking company, or in any agreement executed by it, or in any resolution passed by the banking company in general meeting or by its Board of directors, whether the same be registered, executed or passed, as the case may be, before or after the commencement of the Banking Companies (Amendment) Act, 1959; and

(*b*) any provision contained in the memorandum, articles, agreement or resolution aforesaid shall, to the extent to which it is repugnant to the provisions of this Act, become or be void, as the case may be.".

Amendment of section 6.

4. In section 6 of the principal Act, in clause (*b*) of sub-section (*1*), for the words "managing agent", the words "managing agent or secretary and treasurer" shall be substituted.

5. In section 7 of the principal Act, for the proviso, the following proviso shall be substituted, namely:— Amendment of section 7.

"Provided that nothing in this section shall apply to—

(*a*) a subsidiary of a banking company formed for one or more of the purposes mentioned in sub-section (*1*) of section 19 whose name indicates that it is a subsidiary of that banking company;

(*b*) any association of banks formed for the protection of their mutual interests and registered under section 25 of the Companies Act, 1956.". 1 of 1956.

6. In section 10 of the principal Act,— Amendment of section 10

(*a*) in sub-section (*1*),—

(*i*) in clause (*b*), for the proviso to sub-clause (*ii*), the following proviso shall be substituted, namely:—

"Provided that nothing contained in this sub-clause shall apply to the payment by a banking company of—

(*a*) any bonus in pursuance of a settlement or award arrived at or made under any law relating to industrial disputes or in accordance with any scheme framed by such banking company or in accordance with the usual practice prevailing in banking business;

(*b*) any commission to any broker (including guarantee broker), cashier-contractor, clearing and forwarding agent, auctioneer or any other person employed by the banking company under a contract otherwise than as a regular member of the staff of the company; or";

(*ii*) in clause (*c*), for sub-clause (*i*), the following sub-clause shall be substituted, namely:—

"(*i*) who is a director of any other company not being—

(*a*) a subsidiary of the banking company, or

(*b*) a company registered under section 25 of the Companies Act, 1956: 1 of 1956.

Provided that the prohibition in this sub-clause shall not apply in respect of any such director for a temporary

period not exceeding three months or such further period not exceeding nine months as the Reserve Bank may allow; or";

(*b*) for sub-section (*3*), the following sub-sections shall be substituted, namely:—

"(*3*) Where a person holding the office of a chairman or director or manager or chief executive officer (by whatever name called) of a banking company is, or has been found by any tribunal or other authority (other than a criminal court) to have contravened the provision of any law and the Reserve Bank is satisfied that the contravention is of such a nature that the association of such person with the banking company is or will be detrimental to the interests of the banking company or its depositors or otherwise undesirable, the Reserve Bank may make an order that that person shall cease to hold the office with effect from such date as may be specified therein and thereupon, that office shall, with effect from the said date, become vacant.

(*4*) Any order made under sub-section (*3*) in respect of any person may also provide that he shall not, without the previous permission of the Reserve Bank in writing, in any way, directly or indirectly, be concerned with, or take part in the management of, the banking company or any other banking company for such period not exceeding five years as may be specified in the order.

(*5*) No order under sub-section (*3*) shall be made in respect of any person unless he has been given an opportunity of making a representation to the Reserve Bank against the proposed order:

Provided that it shall not be necessary to give any such opportunity if, in the opinion of the Reserve Bank, any delay would be detrimental to the interests of the banking company or its depositors.

(*6*) Any decision or order of the Reserve Bank made under this section shall be final for all purposes.".

Amendment of section 11

7. In section 11 of the principal Act,—

(*i*) in sub-section (*1*), for the words "unless it has paid-up capital and reserves of such aggregate value as is hereinafter required by this section", the words "unless it complies with such of the requirements of this section as are applicable to it" shall be substituted;

(*ii*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) In the case of a banking company incorporated outside India—

(*a*) the aggregate value of its paid-up capital and reserves shall not be less than fifteen lakhs of rupees and if it has a place or places of business in the city of Bombay or Calcutta or both, twenty lakhs of rupees; and

(*b*) the banking company shall deposit and keep deposited with the Reserve Bank either in cash or in the form of unencumbered approved securities or partly in cash and partly in the form of such securities an amount which shall not be less than the minimum required by clause (*a*):

Provided that any such banking company may at any time replace—

(*i*) any securities so deposited by cash or by any other unencumbered approved securities or partly by cash and partly by other such securities, so however, that the total amount deposited is not affected;

(*ii*) any cash so deposited by unencumbered approved securities of an equal value.";

(*iii*) in sub-section (*4*), the words "the proviso to" shall be omitted;

(*iv*) for sub-section (*5*), the following sub-section shall be substituted, namely:—

'(*5*) For the purposes of this section,—

(*a*) "place of business" means any office, sub-office, sub-pay office and any place of business at which deposits are received, cheques cashed or moneys lent;

(*b*) "value" means to real or exchangeable value, and not the nominal value which may be shown in the books of the banking company concerned.'.

Amendment of section 12

8. In section 12 of the principal Act, in sub-section (*2*), after the words "exercise voting rights", the words "on poll" shall be inserted.

Insertion of new section 14A.

9. After section 14 of the principal Act, the following section shall be inserted, namely:—

Prohibition of floating charge on assets.

"14A. (*1*) Notwithstanding anything contained in section 6, no banking company shall create a floating charge on the undertaking or any property of the company or any part thereof, unless

the creation of such floating charge is certified in writing by the Reserve Bank as not being detrimental to the interests of the depositors of such company.

(2) Any such charge created without obtaining the certificate of the Reserve Bank shall be invalid.

(3) Any banking company aggrieved by the refusal of a certificate under sub-section (1) may, within ninety days from the date on which such refusal is communicated to it, appeal to the Central Government.

(4) The decision of the Central Government where an appeal has been preferred to it under sub-section (3) or of the Reserve Bank where no such appeal has been preferred shall be final.".

Amendment of section 15.

10. Section 15 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Notwithstanding anything to the contrary contained in sub-section (1) or in the Companies Act, 1956, a banking company may pay dividends on its shares without writing off— 1 of 1956.

(i) the depreciation, if any, in the value of its investments in approved securities in any case where such depreciation has not actually been capitalised or otherwise accounted for as a loss;

(ii) the depreciation, if any, in the value of its investments in shares, debentures or bonds (other than approved securities) in any case where adequate provision for such depreciation has been made to the satisfaction of the auditor of the banking company;

(iii) the bad debts, if any, in any case where adequate provision for such debts has been made to the satisfaction of the auditor of the banking company.".

Substitution of new sections for sections 17 and 18.

11. For sections 17 and 18 of the principal Act, the following sections shall be substituted, namely:—

Reserve Fund.

'17. (1) Every banking company incorporated in India shall create a reserve fund and unless the amount in such fund together with the amount in the share premium account is not less than its paid-up capital, shall, out of the balance of profit of each year as disclosed in the profit and loss account prepared under section 29 and before any dividend is declared, transfer to the reserve fund a sum equivalent to not less than twenty per cent. of such profit.

(2) Where a banking company appropriates any sum or sums from the reserve fund or the share premium account, it shall, within twenty-one days from the date of such appropriation, report the fact to the Reserve Bank, explaining the circumstances relating to such appropriation:

Provided that the Reserve Bank may, in any particular case, extend the said period of twenty-one days by such period as it thinks fit or condone any delay in the making of such report.

Cash reserve.

18. Every banking company, not being a scheduled bank, shall maintain in India, by way of cash reserve with itself or in current account opened with the Reserve Bank or the State Bank of India or any other bank notified by the Central Government in this behalf or partly in cash with itself and partly in such account or accounts, a sum equivalent to at least two per cent. of its time liabilities in India and five per cent. of its demand liabilities in India, and shall submit to the Reserve Bank before the fifteenth day of every month a return showing the amount so held on Friday of each week of the preceding month with particulars of its time and demand liabilities in India on each such Friday, or, if any such Friday is a public holiday under the Negotiable 26 of 1881. Instruments Act, 1881, at the close of business on the preceding working day.

Explanation.—In this section and in section 24, "liabilities in India" shall not include—

(*a*) the paid-up capital or the reserves or any credit balance in the profit and loss account of the banking company;

(*b*) any advance taken from the Reserve Bank or from the State Bank of India or from the Refinance Corporation for Industry (Private) Limited, or from any bank notified by the Central Government under clause (*c*) of the *Explanation* to sub-section (*1*) of section 42 of the Reserve Bank of 2 of 1934 India Act, 1934.'.

Amendment of section 19.

12. In section 19 of the principal Act, in sub-section (*1*), after the words "Reserve Bank,", the words "the carrying on of the business of banking exclusively outside India, or" shall be inserted.

Amendment of section 22

13. In section 22 of the principal Act,—

(*i*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) Save as hereinafter provided, no company shall carry on banking business in India unless it holds a licence

issued in that behalf by the Reserve Bank and any such licence may be issued subject to such conditions as the Reserve Bank may think fit to impose.";

(*ii*) in sub-section (2), in the first proviso, for the words, brackets and figure "sub-section (2)", the words "this section" shall be substituted;

(*iii*) in sub-section (3), for clauses (*a*) and (*b*), the following clauses shall be substituted, namely:—

"(*a*) that the company is or will be in a position to pay its present or future depositors in full as their claims accrue;

(*b*) that the affairs of the company are not being, or are not likely to be conducted in a manner detrimental to the interests of its present or future depositors;";

(*iv*) for sub-sections (4) and (5), the following sub-sections shall be substituted, namely:—

"(4) The Reserve Bank may cancel a licence granted to a banking company under this section—

(*i*) if the company ceases to carry on banking business in India* * *; or

(*ii*) if the company at any time fails to comply with any of the conditions imposed upon it under sub-section (*1*); or

(*iii*) if at any time, any of the conditions referred to in sub-section (*3*) is not fulfilled:

Provided that before cancelling a licence under clause (*ii*) or clause (*iii*) of this sub-section on the ground that the banking company has failed to comply with or has failed to fulfil any of the conditions referred to therein, the Reserve Bank, unless it is of opinion that the delay will be prejudicial to the interests of the company's depositors or the public, shall grant to the company on such terms as it may specify, an opportunity of taking the necessary steps for complying with or fulfilling such condition.

(5) Any banking company aggrieved by the decision of the Reserve Bank cancelling a licence under this section may, within thirty days from the date on which such decision is communicated to it, appeal to the Central Government.

(6) The decision of the Central Government where an appeal has been preferred to it under sub-section (5) or of

the Reserve Bank where no such appeal has been preferred shall be final.".

14. For section 23 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 23.

'23. (*1*) Without obtaining the prior permission of the Reserve Bank— Restrictions on opening of new, and transfer of existing, places of business.

(*a*) no banking company shall open a new place of business in India or change otherwise than within the same city, town or village, the location of an existing place of business situated in India; and

(*b*) no banking company incorporated in India shall open a new place of business outside India or change, otherwise than within the same city, town or village in any country or area outside India, the location of an existing place of business situated in that country or area:

Provided that nothing in this sub-section shall apply to the opening for a period not exceeding one month of a temporary place of business within a city, town or village or the environs thereof within which the banking company already has a place of business, for the purpose of affording banking facilities to the public on the occasion of an exhibition, a conference or a *mela* or any other like occasion.

(*2*) Before granting any permission under this section, the Reserve Bank may require to be satisfied by an inspection under section 35 or otherwise as to the financial condition and history of the company, the general character of its management, the adequacy of its capital structure and earning prospects and that public interest will be served by the opening or, as the case may be, change of location, of the place of business.

(*3*) The Reserve Bank may grant permission under sub-section (*1*) subject to such conditions as it may think fit to impose either generally or with reference to any particular case.

(*4*) Where, in the opinion of the Reserve Bank, a banking company has, at any time, failed to comply with any of the conditions imposed on it under this section, the Reserve Bank may, by order in writing and after affording reasonable opportunity to the banking company for showing cause against the action proposed to be taken against it, revoke any permission granted under this section.

(5) For the purposes of this section "place of business" includes any sub-office, pay office, sub-pay office and any place of business at which deposits are received, cheques cashed or moneys lent***.'.

Amendment of section 24.

15. In section 24 of the principal Act,—

(*i*) in sub-section (*1*),—

(*a*) after the words "shall maintain", the words "in India" shall be inserted;

(*b*) for the *Explanation*, the following *Explanation* shall be substituted, namely:—

'*Explanation*.—For the purposes of this section, "unencumbered approved securities" of a banking company shall include its approved securities lodged with another institution for an advance or any other credit arrangement to the extent to which such securities have not been drawn against or availed of.';

(*ii*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) In computing the amount for the purposes of sub-section (*1*), the deposit required under sub-section (*2*) of section 11 to be made with the Reserve Bank by a banking company incorporated outside India and any balances maintained in India by a banking company in current account with the Reserve Bank or the State Bank of India or with any other bank which may be notified in this behalf by the Central Government, including in the case of a scheduled bank the balance required under section 42 of the Reserve Bank of India Act, 1934, to be so maintained, shall be deemed to be cash maintained in India.";

2 of 1934.

(*iii*) in sub-section (*3*), after the words "its time and demand liabilities", the words "in India" shall be inserted.

Amendment of section 25.

16. In section 25 of the principal Act,—

(*i*) for sub-sections (*1*) and (*2*), the following sub-sections shall be substituted, namely:—

"(*1*) The assets in India of every banking company at the close of business on the last Friday of every quarter or, if that Friday is a public holiday under the Negotiable Instruments Act, 1881, at the close of the business on the preceding working day, shall not be less than seventy-five per cent. of its demand and time liabilities in India.

26 of 1881.

(*2*) Every banking company shall, within one month from the end of every quarter, submit to the Reserve Bank a return in the prescribed form and manner of the assets and liabilities referred to in sub-section (*1*) as at the close of business on the last Friday of the previous quarter, or, if that Friday is a public holiday under the Negotiable Instruments Act, 1881, at the close of business on the preceding working day.";

26 of 1881.

(*ii*) in sub-section (*3*), clause (*b*) shall be re-lettered as clause (*c*), and the following shall be inserted as clause (*b*), namely:—

'(*b*) "liabilities in India" shall not include the paid-up capital or the reserves or any credit balance in the profit and loss account of the banking company;'.

17. In section 27 of the principal Act, in sub-section (*2*), for the words "the classification of advances and investments of banking companies in respect of industry, commerce and agriculture", the words "the investments of a banking company and the classification of its advances in respect of industry, commerce and agriculture" shall be substituted. Amendment of section 27.

18. In section 28 of the principal Act, for the words and figures "under section 27", the words "under this Act" shall be substituted. Amendment of section 28.

19. In section 32 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:— Amendment of section 32.

"(*1*) Where a banking company in any year furnishes its accounts and balance sheet in accordance with the provisions of section 31, it shall at the same time send to the registrar three copies of such accounts and balance sheet and of the auditor's report, and where such copies are so sent, it shall not be necessary to file with the registrar, in the case of a public company, copies of the accounts and balance sheet and of the auditor's report, and, in the case of a private company, copies of the balance sheet and of the auditor's report as required by sub-section (*1*) of section 220 of the Companies Act, 1956; and the copies so sent shall be chargeable with the same fee and shall be dealt with in all respects as if they were filed in accordance with that section.".

1 of 1956.

Amendment of section 35.

20. To section 35 of the principal Act, the following *Explanation* shall be added, namely:—

'*Explanation.*—For the purposes of this section, the expression "banking company" shall include—

(*i*) in the case of a banking company incorporated outside India, all its branches in India; and

(*ii*) in the case of a banking company incorporated in India— * *

(*a*) all its subsidiaries formed for the purpose of carrying on the business of banking exclusively outside India; and

(*b*) all its branches whether situated in India or outside India.

Amendment of section 35B.

21. In section 35B of the principal Act,—

(*i*) in clause (*a*) of sub-section (*1*), for the words "managing or whole-time director or of a director not liable to retire by rotation", the words "managing director or any other director, whole-time or otherwise" shall be substituted;

(*ii*) to sub-section (*1*), the following *Explanation* shall be added, namely:—

"*Explanation.*—For the purposes of this sub-section, any provision conferring any benefit or providing any amenity or perquisite, in whatever form, whether during or after the termination of the term of office of the manager or the chief executive officer by whatever name called or the managing director, or any other director, whole-time or otherwise, shall be deemed to be a provision relating to his remuneration.";

(*iii*) in sub-section (*2*), for the words, brackets and figures "apply to a banking company after the commencement of the Banking Companies (Amendment) Act, 1956", the following shall be substituted, namely:— 95 of 1956.

"apply to any matter in respect of which the approval of the Reserve Bank has to be obtained under sub-section (*1*)".

Amendment of section 36

22. In section 36 of the principal Act, in clause (*b*) of sub-section (*1*), for the figures "45", the figures and letter "44A" shall be substituted.

23. In PART II of the principal Act, after section 36, the following section shall be inserted, namely:— Insertion of new section 36 A.

"36A. (*1*) The provisions of section 11, sub-section (*1*) of section 12, and sections 17, 18, 24 and 25 shall not apply to a banking company— Certain provisions of the Act not to apply to certain banking companies.

(*a*) which, whether before or after the commencement of the Banking Companies (Amendment) Act, 1959, has been refused a licence under section 22, or prohibited from accepting fresh deposits by a compromise, arrangement or scheme sanctioned by a court or by any order made in any proceeding relating to such compromise, arrangement or scheme, or prohibited from accepting deposits by virtue of any alteration made in its memorandum; or

(*b*) whose licence has been cancelled under section 22, whether before or after the commencement of the Banking Companies (Amendment) Act, 1959.

(*2*) Where the Reserve Bank is satisfied that any such banking company as is referred to in sub-section (*1*) has repaid, or has made adequate provision for repaying all deposits accepted by the banking company, either in full or to the maximum extent possible, the Reserve Bank may, by notice published in the Official Gazette, notify that the banking company has ceased to be a banking company within the meaning of this Act, and thereupon all the provisions of this Act applicable to such banking company shall cease to apply to it, except as respects things done or omitted to be done before such notice.".

24. Section 36A of the principal Act shall be re-numbered as section 36B. Amendment of section 36A.

25. In section 37 of the principal Act, after sub-section (*3*), the following sub-section shall be inserted, namely:— Amendment of section 37.

"(*4*) Where the Reserve Bank is satisfied that the affairs of a banking company in respect of which an order under sub-section (*1*) has been made, are being conducted in a manner detrimental to the interests of the depositors, it may make an application to the High Court for the winding up of the company, and where any such application is made, the High Court shall not make any order extending the period for which the commencement or continuance of all actions and proceedings against the company were stayed under that sub-section.".

Substitution of new section for section 38.

26. For section 38 of the principal Act, the following section shall be substituted, namely:—

Winding up by High Court.

"38. (*1*) Notwithstanding anything contained in section 391, section 392, section 433 and section 583 of the Companies Act, 1956, but without prejudice to its powers under sub-section (*1*) of section 37 of this Act, the High Court shall order the winding up of a banking company— 1 of 1956

(*a*) if the banking company is unable to pay its debts; or

(*b*) if an application for its winding up has been made by the Reserve Bank under section 37 or this section.

(*2*) The Reserve Bank shall make an application under this section for the winding up of a banking company if it is directed so to do by an order under clause (*b*) of sub-section (*4*) of section 35.

(*3*) The Reserve Bank may make an application under this section for the winding up of a banking company—

(*a*) if the banking company—

(*i*) has failed to comply with the requirements specified in section 11; or

(*ii*) has by reason of the provisions of section 22 become disentitled to carry on banking business in India; or

(*iii*) has been prohibited from receiving fresh deposits by an order under clause (*a*) of sub-section (*4*) of section 35 or under clause (*b*) of sub-section (*3A*) of section 42 of the Reserve Bank of India Act, 1934; or 2 of 1934.

(*iv*) having failed to comply with any requirement of this Act other than the requirements laid down in section 11, has continued such failure, or, having contravened any provision of this Act has continued such contravention beyond such period or periods as may be specified in that behalf by the Reserve Bank from time to time, after notice in writing of such failure or contravention has been conveyed to the banking company; or

(*b*) if in the opinion of the Reserve Bank—

(*i*) a compromise or arrangement sanctioned by

a Court in respect of the banking company cannot be worked satisfactorily with or without modifications; or

(*ii*) the returns, statements or information furnished to it under or in pursuance of the provisions of this Act disclose that the banking company is unable to pay its debts; or

(*iii*) the continuance of the banking company is prejudicial to the interests of its depositors.

(4) Without prejudice to the provisions contained in section 434 of the Companies Act, 1956, a banking company shall be deemed to be unable to pay its debts if it has refused to meet any lawful demand made at any of its offices or branches within two working days, if such demand is made at a place where there is an office, branch or agency of the Reserve Bank, or within five working days, if such demand is made elsewhere, and if the Reserve Bank certifies in writing that the banking company is unable to pay its debts.

(5) A copy of every application made by the Reserve Bank under sub-section (*1*) shall be sent by the Reserve Bank to the registrar.".

1 of 1956.

Amendment of section 39.

27. In section 39 of the principal Act, for the words and figures "in section 448", the words and figures "in section 448 or section 449" shall be substituted.

Insertion of new section 39A.

28. After section 39 of the principal Act, the following section shall be inserted, namely:—

1 of 1956.

Application of Companies Act to liquidators.

'39A. (*1*) All the provisions of the Companies Act, 1956, relating to a liquidator, in so far as they are not inconsistent with this Act, shall apply to or in relation to a liquidator appointed under section 38A or section 39.

(*2*) Any reference to the "official liquidator" in this Part and Part IIIA shall be construed as including a reference to any liquidator of a banking company.'.

Amendment of section 43A.

29. In section 43A of the principal Act, in sub-section (*1*), after the words " have been made,", the words "or adequate provision to the satisfaction of the High Court for such payments has been made," shall be inserted.

Substitution of new section for section 44.

30. For section 44 of the principal Act, the following section shall be substituted, namely:—

1 of 1956.

Powers of High Court in voluntary winding up.

"44. (*1*) Notwithstanding anything to the contrary contained in section 484 of the Companies Act, 1956, no banking company may be voluntarily wound up unless the Reserve Bank

certifies in writing that the company is able to pay in full and its debts to its creditors as they accrue.

(2) The High Court may, in any case where a banking company is being wound up voluntarily, make an order that the voluntary winding up shall continue, but subject to the supervision of the court.

(3) Without prejudice to the provisions contained in sections 441 and 521 of the Companies Act, 1956, the High Court may of its own motion and shall on the application of the Reserve Bank, order the winding up of a banking company by the High Court in any of the following cases, namely:— 1 of 1956

(*a*) where the banking company is being wound up voluntarily and at any stage during the voluntary winding up proceedings the company is not able to meet its debts as they accrue; or

(*b*) where the banking company is being wound up voluntarily or is being wound up subject to the supervision of the court and the High Court is satisfied that the voluntary winding up or winding up subject to the supervision of the court cannot be continued without detriment to the interests of the depositors.".

Omission of section 45 K.

31. Section 45K of the principal Act shall be omitted.

Amendment of section 45O.

32. In section 45O of the principal Act, in sub-section (2), after the words "accrual of such claims", the words "or five years from the date of the first appointment of the liquidator, whichever is longer" shall be inserted.

Amendment of section 46.

33. In section 46 of the principal Act,—

(*i*) in sub-section (2), for the words "five hundred rupees", the words "two thousand rupees" and for the words "fifty rupees", the words "one hundred rupees" shall be substituted;

(*ii*) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) If any other provision of this Act is contravened or if any default is made in complying with any requirement of this Act or of any order, rule or direction made or condition imposed thereunder, every director, liquidator and other officer of the company and any other person who is knowingly a party to the contravention or default shall be punishable with fine which may extend to two thousand rupees, and

where a contravention or default is a continuing one, with a further fine which may extend to one hundred rupees for every day during which such contravention or default continues.";

(*iii*) sub-section (5) shall be omitted.

Amendment of section 49.

34. In section 49 of the principal Act, for the words, figures brackets and letters "sections 90, 165 and 255, clauses (*a*) and (*b*) of sub-section (*1*) of section 293 and sections 300 and 416 of the Companies Act, 1956", the following shall be substituted, namely:—

1 of 1956.

"sections 90, 165, 182, 204 and 255, clauses (*a*) and (*b*) of sub-section (*1*) of section 293 and sections 300, 384 and 416 of the Companies Act, 1956".

1 of 1956.

Insertion of new sections 49A, 49B and 49C.

35. After section 49 of the principal Act, the following sections shall be inserted, namely:—

Restriction on acceptance of deposits withdrawable by cheque.

"49A. No person other than a banking company, the Reserve Bank, the State Bank of India or any other banking institution notified by the Central Government in this behalf shall accept from the public deposits of money withdrawable by cheque:

Provided that nothing contained in this section shall apply to any savings bank scheme run by the Government.

Change of name by a banking company.

49B. Notwithstanding anything contained in section 21 of the Companies Act, 1956, the Central Government shall not signify its approval to the change of name of any banking company unless the Reserve Bank certifies in writing that it has no objection to such change.

1 of 1956.

Alteration of memorandum of a banking company.

49C. Notwithstanding anything contained in the Companies Act, 1956, no application for the confirmation of the alteration of the memorandum of a banking company shall be maintainable unless the Reserve Bank certifies that there is no objection to such alteration.".

1 of 1956.

Amendment of section 42 of the Reserve Bank of India Act, 1934.

2 of 1934.

36. In section 42 of the Reserve Bank of India Act, 1934, in the *Explanation* to sub-section (*1*), for clause (*c*), the following clause shall be substituted, namely:—

'(c) "liabilities" shall not include the paid-up capital or the reserves or any credit balance in the profit and loss account of the bank or the amount of any loan taken from the Bank or from the Refinance Corporation for Industry (Private) Limited, or from the State Bank or from any other bank notified by the Central Government in this behalf.'.

APPENDIX I

(*Vide* Para 2 of the Report)

Motion in the Lok Sabha for reference of the Bill to Joint Committee

"That the Bill further to amend the Banking Companies Act, 1949, be referred to a Joint Committee of the Houses consisting of 45 members; 30 from this House, namely:—

1. Shri C. R. Pattabhi Raman
2. Shri S. Osman Ali Khan
3. Shrimati Sangam Laxmi Bai
4. Shri Kailash Pati Sinha
5. Shri Bhola Raut
6. Shri Chandra Shankar
7. Shri Suriya Prasad
8. Shri Liladhar Joshi
9. Shri P. Subbiah Ambalam
10. Shri S. M. Siddiah
11. Shri Hem Raj
12. Shri Harish Chandra Mathur
13. Pandit Krishna Chandra Sharma
14. Seth Achal Singh
15. Shri Raja Ram Misra
16. Shri S. Hansda
17. Shri Prafulla Chandra Borooah
18. Shri Umrao Singh
19. Shri Kamal Krishna Das
20. Shri B. R. Bhagat
21. Shri K. G. Deshmukh
22. Shri V. P. Nayar
23. Shri Chintamani Panigrahi
24. Shri Khushwaqt Rai
25. Shri Motisinh Bahadursinh Thakore
26. Shri Karsandas Parmar

27. Shri Premji R. Assar
28. Shri Prakash Vir Shastri
29. Shri S. M. Banerjee, and
30. Shri Morarji Desai

and 15 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the last day of the first week of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee."

APPENDIX II

(*Vide* Para 3 of the Report)

Motion in the Rajya Sabha

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill further to amend the Banking Companies Act, 1949, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

1. Shri Tarkeshwar Pande
2. Shri P. S. Rajagopal Naidu
3. Shrimati Sharda Bhargava
4. Shri M. Govinda Reddy
5. Shri Lavji Lakhamshi
6. Shri Mahesh Saran
7. Shri Trimbak Damodar Pustake
8. Shri Nawab Singh Chauhan
9. Shri V. C. Kesava Rao
10. Shri M. D. Tumpalliwar
11. Dr. Raj Bahadur Gour
12. Shri Rajendra Pratap Sinha
13. Shri Kamta Singh
14. Shri A. Chakradhar
15. Dr. B. Gopala Reddi."

APPENDIX III

(*Vide* Para 7 of the Report)

Statement showing particulars of memoranda/representations etc. received by the Joint Committee and action taken thereon.

No.	Nature of document	From whom received	Action taken
1.	Memorandum	Indian Banks' Association, Bombay.	Circulated to Members & Evidence of the Association taken on 13-7-59.
	Do.	The Bombay Exchange Banks' Association, Bombay.	Circulated to Members.
2.	Do.	All India Bank Employees Association, Delhi.	Circulated to Members & Evidence of the Association taken on 13-7-59
3.	Do.	Shri M. S. Gidwani, 341, Pandara Road, New Delhi.	Circulated to Members.

APPENDIX IV

(*Vide* Para 8 of the Report)

List of Associations who tendered evidence before the Joint Committee

Serial No.	Name of Associations	Date on which evidence was taken
1.	All India Bank Employees' Association, Delhi .	13-7-59
2.	Indian Banks' Association, Bombay . . .	13-7-59

APPENDIX V

MINUTES OF THE SITTINGS OF THE JOINT COMMITTEE ON THE BANKING COMPANIES (AMENDMENT) BILL, 1959

I

First Sitting

The Committee met from 15.30 to 16.00 hours on Saturday, the 9th May, 1959.

PRESENT

Shri C. R. Pattabhi Raman—*Chairman*

MEMBERS

Lok Sabha

1. Shrimati Sangam Laxmi Bai
2. Shri Kailash Pati Sinha
3. Shri Bhola Raut
4. Shri Chandra Shankar
5. Shri P. Subbiah Ambalam
6. Shri S. M. Siddiah
7. Shri Hem Raj
8. Shri S. Hansda
9. Shri Prafulla Chandra Borooah
10. Shri Umrao Singh
11. Shri Kamal Krishna Das
12. Shri B. R. Bhagat
13. Shri K. G. Deshmukh
14. Shri Chintamani Panigrahi
15. Shri Khushwaqt Rai
16. Shri Motisinh Bahadursinh Thakore
17. Shri Karsandas Parmar
18. Shri Premji R. Assar
19. Shri Prakash Vir Shastri.

20. Shri Tarkeshwar Pande
21. Shrimati Sharda Bhargava
22. Shri M. Govinda Reddy
23. Shri T. D. Pustake
24. Dr. Raj Bahadur Gour
25. Dr. B. Gopala Reddi.

DRAFTSMAN

Shri V. N. Bhatia, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri A. Baksi, *Joint Secretary, Ministry of Finance.*
Shri R. K. Seshadri, *Deputy Secretary, Ministry of Finance.*

SECRETARIAT

Shri A. L. Rai, *Under Secretary.*

2. The Chairman as directed by the Speaker read out a letter which he had written to the Speaker informing him that he was a legal adviser to certain Banking Companies.

3. The Committee held a discussion about their future programme of sittings.

4. The Committee considered whether any evidence should be taken by them and whether it was necessary to issue a press communique advising associations and individuals desirous of presenting their suggestions or views before the Committee in respect of the Bill to submit written memoranda thereon.

5. It was decided that a press communique might be issued advising associations, public bodies and individuals who are desirous of presenting their suggestions or views before the Committee in respect of the Bill to send written memoranda thereon to the Lok Sabha Secretariat by the 10th June, 1959.

6. The Committee authorised the Chairman to decide after examining the memoranda as to which of the Associations, public bodies etc. ought to be called to give oral evidence before the Committee.

7. The Committee desired that copies of the Banking Companies Act, 1949 and the last annual report on the trend and progress of

Banking Companies in India submitted to the Government by the Reserve Bank might be circulated to the Members of the Committee.

8. The Committee decided to hold their further sittings from the 13th July, 1959 onwards.

9. The Chairman suggested that notices of amendments to the clauses of the Bill might be sent to the Lok Sabha Secretariat by the 6th July, 1959 for circulation to the Members of the Committee.

The Committee then adjourned to meet again at 15.00 hours on Monday, the 13th July, 1959.

II

Second Sitting

The Committee met from 15.00 to 17.00 hours on Monday, the 13th July, 1959.

PRESENT

Shri C. R. Pattabhi Raman—*Chairman*

MEMBERS

Lok Sabha

2. Shri S. Osman Ali Khan
3. Shri Kailash Pati Sinha
4. Shri Bhola Raut
5. Shri Chandra Shankar
6. Shri Suriya Prasad
7. Shri P. Subbiah Ambalam
8. Shri S. M. Siddiah
9. Shri Hem Raj
10. Shri Harish Chandra Mathur
11. Seth Achal Singh
12. Shri Raja Ram Misra
13. Shri S. Hansda
14. Shri Prafulla Chandra Borooah
15. Shri Umrao Singh
16. Shri Kamal Krishna Das
17. Shri B. R. Bhagat
18. Shri K. G. Deshmukh
19. Shri Chintamani Panigrahi
20. Shri Khushwaqt Rai
21. Shri Motisinh Bahadursinh Thakore
22. Shri Karsandas Parmar
23. Shri Premji R. Assar
24. Shri Prakash Vir Shastri
25. Shri S. M. Banerjee
26. Shri Morarji Desai.

27. Shri Tarkeshwar Pande
28. Shri P. S. Rajagopal Naidu
29. Shrimati Sharda Bhargava
30. Shri M. Govinda Reddy
31. Shri Lavji Lakhamshi
32. Shri Mahesh Saran
33. Shri T. D. Pustake
34. Shri V. C. Kesava Rao
35. Shri M. D. Tumpalliwar
36. Dr. Raj Bahadur Gour
37. Shri Rajendra Pratap Sinha
38. Shri Kamta Singh
39. Dr. B. Gopala Reddi.

DRAFTSMEN

Shri S. K. Hiranandani, *Joint Secretary and Draftsman, Ministry of Law.*

Shri V. N. Bhatia, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF THE MINISTRIES AND OTHER OFFICERS

Shri M. V. Rangachari, *Special Secretary, Ministry of Finance.*

Shri A. Bakshi, *Joint Secretary, Ministry of Finance.*

Shri C. S. Divekar, *Executive Director, Reserve Bank of India.*

Shri R. K. Seshadri, *Deputy Secretary, Ministry of Finance.*

SECRETARIAT

Shri P. K. Patnaik—*Under Secretary.*

WITNESSES

I. *All India Bank Employees Association, Delhi.*

1. Shri Prabhat Kar.
2. Shri H. L. Parvana.
3. Shri G. N. Trikanad.

II. *Indian Banks' Association, Bombay.*

1. Shri S. L. Kothari.
2. Shri R. L. Tuli.

2. The Committee heard the evidence tendered by the representatives of the two associations named above.

3. A verbatim record of the evidence tendered was taken down.

4. The Committee decided that the whole of the evidence tendered before them might be laid on the Table of the House.

5. The Committee also decided that the memoranda submitted by the associations that tendered evidence before the Committee might be appended to the Evidence volume and laid on the Table of the House.

6. The Committee decided to take up clause by clause consideration of Bill at their next sitting.

7. The Committee then adjourned to meet again at 09.00 hours on Tuesday, the 14th July, 1959.

III

Third Sitting

The Committee met from 09.00 hours to 12.50 hours on Tuesday, the 14th July, 1959.

PRESENT

Shri C. R. Pattabhi Raman—*Chairman*

MEMBERS

Lok Sabha

2. Shri S. Osman Ali Khan
3. Shri Kailash Pati Sinha
4. Shri Bhola Raut
5. Shri Chandra Shankar
6. Shri Suriya Prasad
7. Shri P. Subbiah Ambalam
8. Shri S. M. Siddiah
9. Shri Hem Raj
10. Shri Harish Chandra Mathur
11. Pandit Krishna Chandra Sharma
12. Seth Achal Singh
13. Shri Raja Ram Misra
14. Shri S. Hansda
15. Shri Prafulla Chandra Borooah
16. Shri Umrao Singh
17. Shri Kamal Krishna Das
18. Shri B. R. Bhagat
19. Shri K. G. Deshmukh
20. Shri V. P. Nayar
21. Shri Chintamani Panigrahi
22. Shri Khushwaqt Rai
23. Shri Motisinh Bahadursinh Thakore
24. Shri Karsandas Parmar
25. Shri Premji R. Assar

26. Shri Prakash Vir Shastri
27. Shri S. M. Banerjee
28. Shri Morarji Desai.

Rajya Sabha

29. Shri Tarkeshwar Pande
30. Shri P. S. Rajagopal Naidu
31. Shrimati Sharda Bhargava
32. Shri M. Govinda Reddy
33. Shri Lavji Lakhamshi
34. Shri Mahesh Saran
35. Shri T. D. Pustake
36. Shri V. C. Kesava Rao
37. Shri M. D. Tumpalliwar
38. Dr. Raj Bahadur Gour
39. Shri Rajendra Pratap Sinha
40. Shri Kamta Singh
41. Dr. B. Gopala Reddi.

DRAFTSMEN

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Shri V. N. Bhatia, *Deputy Draftsman, Ministry of Law.*

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Shri A. Bakshi, *Joint Secretary, Ministry of Finance.*

Shri C. S. Divekar, *Executive Director, Reserve Bank of India.*

Shri R. K. Seshadri, *Deputy Secretary, Ministry of Finance.*

SECRETARIAT

Shri P. K. Patnaik—*Under Secretary.*

2. The Committee took up clause by clause consideration of the Bill.

3. *Clause* 2.

The following Government amendment was accepted:—

In page 1, line 15—

for "or where any of the forms of business", *substitute* "and for the purposes of section 35 includes any place of business where any other form of business".

The clause as amended was adopted.

4. *Clauses* 3 *to* 5.

These clauses were adopted without any amendment.

5. *Clause* 6.

The following amendments were accepted:—

(i) In page 3, line 30—

for "six months", *substitute* "nine months".

(ii) In page 3,—

(a) line 6,

omit "in sub-section (1)".

(b) *after* line 6,

insert "(a) in sub-section (1)".

(c) after line 30,

insert "(b) for sub-section (3), the following sub-sections shall be substituted, namely:—

(3) Where a person holding the office of a chairman or director or manager or chief executive officer (by whatever name called) of a banking company is, or has been found by any tribunal or other authority (other than a criminal court) to have contravened the provision of any law and the Reserve Bank is satisfied that the contravention is of such a nature that the association of such person with the banking company is or will be detrimental to the interests of the banking company or its depositors or otherwise undesirable, the Reserve Bank may make an order that that person shall cease to hold the office with effect from such date as may be specified therein and thereupon, that office shall, with effect from the said date, become vacant.

(4) Any order made under sub-section (3) in respect of any person may also provide that he shall not, without the previous permission of the Reserve Bank in writing, in any way, directly or indirectly, be concerned with, or take part in the management of, the banking company or any other banking company for such period not exceeding five years as may be specified in the order.

(5) No order under sub-section (3) shall be made in respect of any person unless he has been given an opportunity of making a representation to the Reserve Bank against the proposed order:

Provided that it shall not be necessary to give any such opportunity if, in the opinion of the Reserve Bank, any delay would be detrimental to the interests of the banking company or its depositors.

(6) Any decision or order of the Reserve Bank made under this section shall be final for all purposes."

6. *Clauses* 7 *to* 9.

These clauses were adopted without any amendment.

7. *Clause* 10.

The following Government amendment was accepted:—

In page 5,—

for lines 13 to 18, *substitute*—

"(2) Notwithstanding anything to the contrary contained in sub-section (1) or in the Companies Act, 1956, a banking company may pay dividends on its shares without writing off—

(i) the depreciation, if any, in the value of its investments in approved securities in any case where such depreciation has not actually been capitalised or otherwise accounted for as a loss;

(ii) the depreciation, if any, in the value of its investments in shares/debentures or bonds (other than approved securities) in any case where adequate provisions for such depreciation has been made to the satisfaction of the auditor of the banking company;

(iii) the bad debts, if any, in any case where adequate provision for such debts has been made to the satisfaction of the auditor of the banking company."

The clause as amended was adopted.

8. *Clause* 11.

The clause was adopted without any amendment.

9. *Clause* 12.

The following Government amendment was accepted:—

In page 6, *for* lines 23 to 25, *substitute*—

"12. In section 19 of the principal Act in sub-section (1) after the words "Reserve Bank", the words "the carrying on of the business of banking exclusively outside India or" shall be inserted."

The clause as amended was adopted.

10. *Clause* 13.

The following Government amendments were accepted:—

(i) In page 6, *after* line 36, *add*—

"(iii) in sub-section (3), for clauses (a) and (b), the following clauses shall be substituted, namely:—

(a) that the company is or will be in a position to pay its present or future depositors in full as their claims accrue;

(b) that the affairs of the company are not being, or are not likely to be conducted in a manner detrimental to the interests of its present or future depositors."

(ii) In page 7, line 6, *omit*—

"or goes into liquidation".

The clause as amended was adopted.

11. *Clause* 14.

The following Government amendment was accepted:—

In page 8, lines 30-31, *omit*—

"or where any of the forms of business referred to in sub-section (1) of section 6 is transacted."

The clause as amended was adopted.

12. *Clauses* 15 *to* 19.

These clauses were adopted without any amendment.

13. *Clause* 20.

The following Government amendment was accepted:—

In page 10, *for* lines 30-32, *substitute*—

"(ii) in the case of a banking company incorporated in India—

(a) all its subsidiaries formed for the purpose of carrying on the business of banking exclusively outside India; and

(b) all its branches whether situated in India or outside India."

The clause as amended was adopted.

14. *Clauses* 21 *to* 32.

These clauses were adopted without any amendment.

15. *Clause* 33.

The following amendment was accepted:—

In page 15,—

(a) line 12,

for "five hundred" *substitute* "two thousand".

(b) line 14,

for "fifty" *substitute* "one hundred".

The clause as amended was adopted.

16. *Clause* 34.

The clause was adopted without any amendment.

17. *Clause* 35.

The following Government amendment was accepted:—

In page 15, line 26,—

after "banking company" *insert* "the Reserve Bank".

The clause as amended was adopted.

18. *Clause* 36.

The clause was adopted without any amendment.

19. *Clause* 1.

The clause was adopted without any amendment.

20. The Committee unanimously decided to waive the time gap of three days between the disposal of the clauses of the Bill by the Committee and the consideration of the draft report as prescribed in Direction No. 78 and decided to consider the draft report at their next sitting to be held on the 15th July, 1959.

21. The Committee then adjourned to meet again at 14.30 hours on Wednesday, the 15th July, 1959.

IV
Fourth Sitting

The Committee met from 14.50 hours to 15.00 hours on Wednesday, the 15th July, 1959.

PRESENT

Shri C. R. Pattabhi Raman—*Chairman*

MEMBERS

Lok Sabha

2. Shri S. Osman Ali Khan
3. Shri Kailash Pati Sinha
4. Shri Chandra Shankar
5. Shri Suriya Prasad
6. Shri P. Subbiah Ambalam
7. Shri S. M. Siddiah
8. Shri Hem Raj
9. Shri Harish Chandra Mathur
10. Pandit Krishna Chandra Sharma
11. Seth Achal Singh
12. Shri Raja Ram Mishra
13. Shri S. Hansda
14. Shri Prafulla Chandra Borooah
15. Shri Umrao Singh
16. Shri Kamal Krishna Das
17. Shri B. R. Bhagat
18. Shri K. G. Deshmukh
19. Shri V. P. Nayar
20. Shri Chintamani Panigrahi
21. Shri Khushwaqt Rai
22. Shri Motisinh Bahadursinh Thakore
23. Shri Karsandas Parmar
24. Shri Premji R. Assar
25. Shri Prakash Vir Shastri
26. Shri S. M. Banerjee.

Rajya Sabha

27. Shri Tarkeshwar Pande
28. Shri P. S. Rajagopal Naidu
29. Shrimati Sharda Bhargava
30. Shri M. Govinda Reddy
31. Shri Lavji Lakhamshi
32. Shri Mahesh Saran
33. Shri T. D. Pustake
34. Shri V. C. Kesava Rao.
35. Shri M. D. Tumpalliwar
36. Dr. Raj Bahadur Gour
37. Shri Rajendra Pratap Sinha

38. Shri Kamta Singh
39. Dr. B. Gopala Reddi.

DRAFTSMAN

Shri S. K. Hiranandani, *Joint Secretary and Draftsman, Ministry of Law.*

Shri V. N. Bhatia, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF THE MINISTRIES AND OTHER OFFICERS

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Shri A. Baksi, *Joint Secretary, Ministry of Finance.*

Shri C. S. Divekar, *Executive Director, Reserve Bank of India.*

Shri R. K. Seshadri, *Deputy Secretary, Ministry of Finance.*

SECRETARIAT

Shri P. K. Patnaik—*Under Secretary.*

2. The Committee considered the Bill as amended and adopted the same with the following amendment:—

Clause 33.

After "In section 46 of the principal Act, ..." *insert*:—

"(i) in sub-section (2), for the words "five hundred rupees", the words "two thousand rupees", and for the words "fifty rupees", the words "one hundred rupees" shall be substituted".

Re-number (i) and (ii) as (ii) and (iii) respectively.

3. The Committee then considered the draft Report and adopted the same with necessary consequential changes in regard to clause 33 and certain other verbal changes.

4. The Committee authorised the Chairman and in his absence Shri Harish Chandra Mathur to present the Report on their behalf and to lay the evidence on the Table of the House after the presentation of the Report.

5. The Committee authorised Dr. Raj Bahadur Gour and in his absence Shri M. Govinda Reddy to lay the Report of the Committee and the evidence on the Table of the Rajya Sabha.

6. The Committee decided that the Report might be presented to the Lok Sabha on the 3rd August, 1959 and laid on the Table of the Rajya Sabha on the 10th August, 1959.

7. The Committee decided that Minutes of Dissent, if any, might be sent to the Lok Sabha Secretariat so as to reach them by the 22nd July, 1959.

8. The Committee then adjourned.

C. B. (II) No. 90.

LOK SABHA

THE ARMS BILL, 1958

(Report of the Joint Committee)

PRESENTED ON THE 10th AUGUST, 1959

सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI
August, 1959

LOK SABHA

CORRIGENDA

TO

THE REPORT OF THE JOINT COMMITTEE ON
THE ARMS BILL, 1958

Report of the Joint Committee

1. At page (iv), for line 3 of para 15, read "notification issued by the Central Government under this clause, the notification should specify the categories of arms for which licences"

2. Attpage (vi), line 6 from top, for "provided" read "proved"

3. At page (vi), line 20, for "licence" read "licencee"

4. At page (vi) line 21, for "licence's" read "licencee's"

Minutes of Dissent

5. At page (xv), line 10 from top, for "fell" read "feel"

6. At page (xvi), line 16 from top, for "Class" read "clause"

7. At page (xvi), line 23 from top, for "India Arms Rule" read "Indian Arms Rules"

Bill as amended by the
Joint Committee.

3. At page 1, line 15, for "rockes" read " rockets"

NEW DELHI,

The 14th August, 1959.

'Singh'

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THE ARMS BILL, 1958

Composition of the Joint Committee

Shri Upendranath Barman—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Missula Suryanarayanamurti
3. Rani Manjula Devi
4. Shri Bibhuti Mishra
5. Shri Mohammad Tahir
6. Dr. Gopalrao Khedkar
7. Shri Chhaganlal M. Kedaria
8. Shri M. K. M. Abdul Salam
9. Shri R. S. Arumugam
10. Shri Vidya Charan Shukla
11. Shri Shri K. R. Achar
12. Shri Mathew Maniyangadan
13. Shri Bhakt Darshan
14. Shri Jagan Nath Prasad Pahadia
15. Shri Raghubir Sahai
16. Shri Ansar Harvani
17. Shri Devanapalli Rajiah
18. Shri Bangshi Thakur
19. Shri Radha Charan Sharma
20. Shri Satis Chandra Samanta
21. Shri Ranbir Singh Chaudhuri
22. Shri Hirendra Nath Mukerjee
23. Shri K. K. Warior
24. Shri Mohan Swarup
25 Shri Shambhu Charan Godsora
26. Thakor Shri Fatesinhji Ghodasar
27. Shri Uma Charan Patnaik
28. Shri Atal Bihari Vajpayee
29. Shri Shankarrao Khanderao Dige
30. Shri B. N. Datar.

Rajya Sabha

31. Shri Ahmad Said Khan
32. Shri Har Prasad Saksena
33. Shrimati Maya Devi Chettry
34. Shri B. Parameswaran
35. Shri Narotham Reddy
36. Shri Onkar Nath
37. Thakur Bhanu Pratap Singh
38. Shri Govind Chandra Misra
39. Sardar Raghbir Singh Panjhazari
40. Shri P. N. Rajabhoj
41. Shri N. C. Sekhar
42. Shri Faridul Haq Ansari
43. Shri Anand Chand
44. Shri B. D. Khobaragade
45. Shrimati Violet Alva.

DRAFTSMEN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri S. L. Shakdher—*Joint Secretary.*

Shri A. L. Rai—*Under Secretary.*

Shri P. K. Patnaik—*Under Secretary*

Report of the Joint Committee

I, the Chairman of the Joint Committee to which the Bill* to consolidate and amend the law relating to arms and ammunition was referred, having been authorised to submit the report on their behalf, present their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 18th December, 1958. The motion for reference of the Bill to a Joint Committee of the Houses was moved in the Lok Sabha by Shri B. N. Datar, the Minister of State in the Ministry of Home Affairs, on the 23rd April, 1959 and was discussed and adopted on the same day (Appendix I).

3. The Rajya Sabha discussed the motion on the 28th, 29th and 30th April, 1959 and concurred in the said Motion on the 30th April, 1959 (Appendix II).

4. The message from the Rajya Sabha was read out to the Lok Sabha on the 4th May, 1959.

5. The Committee held ten sittings in all.

6. The first sitting of the Committee was held on the 8th May, 1959 to draw up a programme of work. After a preliminary discussion the Committee felt that it would be advantageous to take evidence from associations and other desirous of presenting their suggestions or views before the Committee and that a press communique inviting memoranda should be issued for the purpose. The Chairman was authorised to decide, after examining the memoranda submitted by them, as to who should be called to tender oral evidence before the Committee.

7. 15 memoranda/representations on the Bill were received by the Committee from different associations and individuals as mentioned in Appendix III.

8. On the 13th and 14th July, 1959, an exhibition of different types of arms was arranged in the Parliament House for the benefit of the members of the Committee.

*Published in Part II, Section 2 of the Gazette of India, Extraodinary, dated the 18th December, 1958.

9. At the third, fourth and sixth sittings of the Committee held on the 14th, 15th and 18th July, 1959 respectively, the Committee heard the evidence given by the Home Secretaries to the Governments of West Bengal, Uttar Pradesh and Punjab and certain other witnesses shown in Appendix IV.

The Committee decided that the whole of the evidence given before them should be laid on the Table of the House.

10. At their fifth sitting held on the 16th July, 1959, the Committee had a general discussion on the important provisions of the Bill. At their sittings held on the 20th, 21st and 22nd July, 1959, the Committee considered the Bill clause by clause.

11. The Committee considered and adopted the Report on the 4th August, 1959.

12. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

13. *Clause* 2.—An amendment of clarificatory nature has been made in sub-clause (1) (e) (iv).

The Committee feel that bombs, grenades and other such arms and ammunition should also be included under the definitions of 'prohibited ammunition' and 'prohibited arms' in items (h) and (i) of sub-clause (1).

The clause has been amended accordingly.

14. *Clause* 3.—The Committee feel that in the proviso to the clause the words "for purposes of sport" should be omitted so that the proviso will cover all *bona fide* use of firearms including sport.

The clause has been amended accordingly.

15. *Clause* 4.—The Committee feel that, in order to avoid hardship or inconvenience to the people living in an area covered by the notification should specify the categories of arms for which licences would be required.

The clause has been amended accordingly.

16. *Clause* 5.—The Committee consider that licence should be required for manufacture, sale, etc., of firearms or ammunition of every description, but as regards other arms they feel that the rules should specify the arms for whose manufacture, sale, etc., licences would be required. So far as sale or transfer by a person of his own arms referred to in the proviso is concerned, the Committee feel that his obligation to inform the authorities of the sale or transfer

should be only in respect of such arms or ammunition as required a licence under clause 3 or clause 4.

The Committee feel that the clause should also include cases of conversion of firearms or ammunition.

The clause has been amended accordingly.

17. *Clause* 8.—The Committee feel that the time-limit of six months under the proviso to this clause should be raised to one year.

The clause has been amended accordingly.

18. *Clause* 9.—The Committee feel that the minimum age limit of persons competent to acquire firearms etc. should be sixteen years instead of eighteen years.

The Committee further feel that instead of specifying in the Act itself the age limits of persons who may receive training in the use of firearms, the age limits should be prescribed by rules.

The clause has been amended accordingly.

19. *Clause* 10.—The clause has been amended with a view to clarify the intention, *viz.*, to afford better facilities to *bona fide* tourists visiting this country.

20. *Clause* 13.—The Committee feel that in order to remove any doubt it should be provided under sub-clause (3) (a) (i) that for *bona fide* crop protection a licensing authority may grant a licence for other smooth bore guns, if it is satisfied that a muzzle loading gun will not be sufficient for such protection.

21. *Clause* 14.—The Committee feel that in sub-clause (1) (b) (ii) the intention may be clarified by adding the words "or public safety" after the words "public peace."

22. *Clause* 17.—Amendment similar to the one made in clause 14 has been made in this clause.

23. *Clause* 19.—The Committee feel that under sub-clause (2), a police officer may seize arms or ammunition which a person is carrying only in case he considers it necessary to do so.

The clause has been amended accordingly.

24. *Clause* 21.—The Committtee consider that the time-limit within which a depositor or his legal representative may give his explanation under sub-clause (4) may be raised from fourteen days to thirty days.

The clause has been amended accordingly.

25. *Clause* 35.—The Committee feel that the onus of proof laid on persons in joint occupation or joint control of premises should be restricted, and only such persons in respect of whom there is reason to believe that they were aware of the existence of the arms or ammunition in the premises etc. should be held liable unless the contrary is provided.

The Committee further feel that the clause should also apply to arms and ammunition found in vehicles besides premises and other places in joint control or occupation.

The clause has been amended accordingly.

26. *Clause* 44.—The amendment made in sub-clause (3) incorporates the new laying formula which has been agreed to by the Committee on Subordinate Legislation.

27. *Clause* 45.—The Committee feel that the forces mentioned in sub-clause (b) (iii) may also include such other forces as may be specified by notification by the Central Government.

The clause has been amended accordingly.

28. The Committee recommend that Government might—

(1) consider whether a provision could be made in the rules for allowing a licence to use temporarily, for purposes of sport another licence's firearms of the type for which he holds a licence;

(2) examine the question of providing in the rules for transport of properly packed firearms through an area notified by the Central Government under clause 4;

(3) give instructions to the State Governments to take a decision on applications for renewal of licences within a specified period.

29. The Joint Committee recommend that the Bill as amended be passed.

UPENDRANATH BARMAN,
Chairman,
Joint Committee.

NEW DELHI;
The 8th August, 1959.

Minutes of Dissent

I

1. It is no doubt creditable on the part of the Government to have brought forward a Bill to amend the Indian Arms Act of 1878.

2. In the statement of Objects and Reasons, it has been stated:— "The present Bill seeks in the main to liberalise the licensing provisions and to reduce the inconvenience to the public to the minimum while at the same time keeping in view the overall demands of public security and the maintenance of public order". No sane person would disagree with the laudable objectives which the Government placed before them for the amendment of the old Arms Act. But it will be worthwhile to see how far it has succeeded in translating them in the body of the Bill, just considered by the Joint Committee.

3. The main difficulty experienced while the old Act was in operation was that peaceful, law-abiding but deserving persons who wanted arms for protection or safety but who were not otherwise resourceful enough, met with innumerable difficulties in securing the licence while those who would manipulate things and pander to the wishes of the authorities felt no such difficulty.

4. The present practice is that after an application for licence is received by the D.M., he calls for a report from the Police, the Tahsil and S.D.O. in charge of that Tahsil. On the basis of these reports, he makes a final decision either in favour or against granting a licence. But while these reports are being called for, the applicant is not only mulcted of money to satisfy the demand of the Police and the Tahsil but also made to deposit considerable sums of money in several funds in which the Government felt interested. That is a different thing, he may withdraw that money soon after, which does not serve the purpose of the Government, even though the object for which the money has been demanded may be quite laudable.

5. In such cases, it has been frequently seen that money is the chief consideration in determining the grant of a licence and not the eligibility of the man. How far that difficulty would be obviated by the passage of the amended legislation will be watched with great interest. There may be many persons who may not be able to meet the demands of the authorities for subscribing to this or that fund, yet they may be genuinely in need of an Arms licence for their personal safety or protection of their property.

6. True, under the new provision of clause 13, it has been provided that the licensing authority shall grant a licence for protection or sport or for *bona fide* crop protection if the applicant does not come under any of the disqualifications mentioned in clause 14.

7. But how to get over the long and tedious and often times irksome procedure of the application passing through the Police, the Tahsil and the S.D.O.

It would have been a welcome departure if it had been specifically provided in the rules to be framed by the Government that the eligibility of the applicant would be enquired into by the Gram Sabha wherever it existed. That would not only lend importance to that primary institution but would make the process of enquiry easy. It does not mean that any other kind of enquiry was held to be a taboo, but this one needs being given a fair trial.

8. It is equally necessary that inordinate delay should not take place in the final decision of the application and the time limit should be specified in the rules. The present practice of District Magistrate entertaining those applications and deciding them one way or the other and the Commissioner hearing appeals against the order of the District Magistrate should be modified to this extent that the entertaining authority should be the S.D.O., in charge of the Tahsil, who should pass final orders while the appeal should be heard by the District Magistrate. Thus going in appeal to another District, which is more expensive and certainly would take more time, would be avoided. The S.D.O. is the person who is expected to know who is who in his Tahsil and would be in a better position to decide the eligibility or otherwise of a person for a licence. He can decide those applications much more quickly. A provision like this should be incorporated in the rules as well.

9. Our object of "reducing the inconvenience to the public to the minimum" will not be attained until and unless the rules are so framed and the State Government issue instructions in this behalf to District Magistrates to see that unnecessary restrictions are not placed in the way of those who apply for licence.

10. In order that time may be saved in conducting enquiry from different sources, it may be provided in the rules that certain kind of information deemed most necessary may be stated in the application form which may be verified by an affidavit from the applicant. The licensing authority may attach such value to the affidavit as it considers necessary but he will certainly be in a position to pass final orders without any undue delay. In case any information given

therein or statement made is subsequently found to be unfounded, not only the licence can be cancelled and arms if issued taken back, but the applicant can be run in under sections 182 or 193 I.P.C. for having given false information.

11. Then again with regard to the "overall demands of public security and the maintenance of public order", which should be borne in mind at every stage by any Government worth the name, it is a well-known fact that unauthorised and country-made arms are very common in the countryside, responsible for most of the dastardly crimes like murder and dacoity whose number has arisen to an alarming extent, of late. I find in this Bill no such provision which would tackle with this problem in the most forthright manner. Perhaps, it has been taken for granted that such arms are there in plenty, we need not worry about them so much. We need only to be vigilant about the issue of fresh licences for legal arms, as it were. In my humble opinion, this is a policy of negation. We should have given a frontal attack to the possession of unauthorised arms and their manufacture on a wide scale in the country. Those who had occasion to see the weapons in the exhibition organised by the Government for the benefit of the members of the Joint Committee, would have seen with what care and precision some of those country-made weapons were manufactured and how deadly they could be.

12. The problem of law and order is a vital one and every law-abiding citizen would give his unstinted support to the Government in adopting measures to suppress lawlessness, to root out the mania of committing murders, dacoity and robbery with the help of the unauthorised arms thereby creating a feeling of insecurity in the countryside. In this matter too, the active co-operation of the Gram Sabhas should be welcomed for in ultimate analysis, it is the people of the village who are the worst sufferers. The rules should also provide relaxation of condition for obtaining licences in areas specially infested with dacoits or border areas open to the Pakistan attacks.

13. I am giving my general support to the provisions of the Bill subject to the considerations noted above and would expect that rules will be framed in the light of the two main considerations given in the Objects and Reasons of the Bill and instructions will be issued to the District officers to comply with them so far as it was humanly possible.

NEW DELHI;
The 4th August, 1959.

RAGHUBIR SAHAI.

II

The Indian Arms Act of 1860, as substituted by the Act of 1878 was intended to disarm the entire nation, and to make it impossible for another war of independence against British rule. It was inspired by a spirit of fear and distrust. As Mahatma Gandhi had put it, "Among the many misdeeds of the British rule in India, history will look upon the Act, depriving a whole nation of arms, as the blackest."

Due to the rigours of the Act and rules thereunder, law-abiding citizens have been finding it difficult to possess fire-arms for self-defence. In spite of the Act and Rules, however, terrorists, dacoits and other anti-social and anti-national elements are using not only civilian weapons but also Bombs, Grenades, Bren-guns, Sten-guns, ·303 bore service rifles and revolvers of military type, as well as country-made fire-arms of dangerous varieties for perpetrating heinous offences against society and the State.

While there are certain welcome changes in provisions relating to the licensing of fire-arms, I cannot subscribe to the Bill even though it has emerged from the Joint Committee, in a somewhat improved form. I feel that the basic approach has not changed in spite, of independence and there is still a lurking sense of suspicion and a lack of faith in our countrymen.

The discussion in the House on the Indian Arms (Amendment) Bill (No. 49 of 1953) introduced by me in the Lok Sabha and the opinions received thereon from many legal luminaries, Bar-Associations, Judges, Collectors, Senior Police Officers and local bodies have not all been taken into consideration. The present Bill, even as amended by the Joint Committee, does not satisfy the aspirations or requirements of a free country, for the following reasons:—

Firstly:—A major criticism of the existing Act of 1878 is that "Arms" includes fire-arms, bayonets, swords, daggers, spears, spear-heads and bows and arrows.....and parts of arms.....". In no other country are such articles banned as "arms"; there are some restrictions elsewhere only regarding "Firearms".

In India, too, in spite of the Act of 1878 it was found necessary to relax the restrictions under this definition. The tribesman had to use his primitive weapons for defence against wild animals; the Sikh had to bear his *kirpan* as a religious duty; the Gurkha his *kukri;* the agriculturist and householder had to possess some instrument which might come under the definition of 'arms'. Hence under Arms Rules, restrictions were withdrawn (*vide* Rule 3 and Schedule thereunder). There has been no adverse effect on the law and order situation since this withdrawal.

In the present Bill even as amended by the Joint Committee, "arms" means "articles of any description, designed or adapted as weapons for offence or defence and includes.....sharp-edged or other deadly weapons.....but does not include..... weapons, incapable of being converted into serviceable weapons". This gives a much broader connotation to "arms", than even the Act of 1878. Any sharp-edged or other article which can be adapted as a weapon of defence may come under this definition. The acquisition, possession and carrying of any such arms as may be specified in a notification may be banned in any area, in which case license will be required to be taken under clause 4. Manufacture, sale etc. of any arms as may be prescribed is banned under clause 5. Rules framed under clause 44 require a manufacturer or dealer in such arms to maintain records and accounts of transactions. Contravention of any of the aforesaid provisions will, under clause 25, make the person liable for 3 years imprisonment or with unlimited fine, or with both. Secret contraventions and intention to use such arms for unlawful purposes are punishable with seven years imprisonment or with unlimited fine, or with both. Under clause 35, "any arms.....in respect of which an offence has been or is being committed is found in any premises, vehicle or other place in the joint occupation or under joint control of several persons each of such persons in respect of whom there is reason to believe was aware of the existence of the arms in the premises, vehicle or place", is criminally liable.

The above provisions relating to so-called "arms" about whose connotation Government have not yet made up their minds, indicate the insecurity and difficulties that the new enactment will create in the country. If a notification is issued under clause 4, or if "arms" now being freely manufactured, sold and possessed are sought to be controlled under clause 5, there will not only be a heavy strain on the administrative and licensing machinery but it will also cause unnecessary harassment to persons who may possess, manufacture or sell such articles. One fails to understand why the carrying of such articles in emergencies cannot be prohibited under the provisions of the Criminal Procedure Code, or Police Acts.

There is no necessity for Government to reserve to themselves the right of depriving citizens, especially the poorer classes, who cannot go in for costly firearms, the meagre sense of security against burglars and wild animals, by possessing at least some sort of sharp-edged weapons for defensive purposes.

Secondly:—It is unfortunate that air-guns, air-rifles, air-pistols are also to be licensed. These toy weapons use small pellets and not cartridges; they are operated, not by any explosive substance

but by compressed air. They are much less dangerous than bows and arrows. They are useful only to scare away thieves or monkeys. They are also useful for young people to learn target shooting. No other country bans these air-weapons; on the other hand, they are being taken recourse to for spreading rifle-mindedness among the youth. Instead of banning, the Ordnance Factories with so much spare capacity, should be encouraged to take up their bulk manufacture. I hope that Parliament will exclude these toys from the purview of the Act.

Thirdly:—As regards firearms, the provisions are more liberal than the Act of 1878 as the word *shall* in clause 13 (3-a) is more emphatic than the word 'may' though in legal phraseology they mean the same. However, under clause 14(b-3), the licensing authority, may, for any reason, refuse to grant a license; under clause 14(3) he can also refuse to give the aggrieved person a copy of the reasons for refusal if he considers it inexpedient to do so. Further, the liberalisation of the provisions may not be of great advantage to the public for some time to come, as the price of firearms and ammunition has gone up at least four times during the last two years, since imports were restricted. Considering that possession of and training in small-arms (breech-loading guns, rifles, revolvers etc.) is desirable to make the citizens in general and residents of border tracts and dacoit-infested areas in particular, defence-minded, relaxations should have been greater, and larger provision made for the grant of free licenses. The liberal provision relating to firearms in other countries, our own experience with regard to residents of Coorg and *ex*-State areas, shows that such liberalisation will not affect the law and order situation but will ultimately be in national interests. Moreover, in spite of the objects and reasons which state, "the bill seeks to liberalise the licensing provisions and to reduce the inconvenience to the public to the minimum". there is no provision to expedite the grant of licenses and renewals. It is hoped that suitable safeguards will be provided for in the rules in this regard.

Fourthly:—The penalty-clauses show that the bill has been mechanically drafted without keeping in view the overall demands of public security. The punishments prescribed are the same whether the infringements relate to "prohibited arms and ammunition" or to commonly used firearms and ammunition or to any other article like a dagger or sword-stick designed or adapted for offence or defence. Deterrent punishments should have been provided for offences in respect of prohibited weapons or for unauthorised import and export of weapons. No tenderness for anti-social and anti-national elements is desirable. It is unfortunate that the Minister of State in the Ministry of Home Affairs and the Joint

Committee did not agree to provide for enhanced punishments in such cases and for reduction of sentences in regard to minor infringements.

Fifthly:—I submit that the Bill should reflect the spirit of a free nation and recognise the right of the State to requisition the services of every citizen in emergencies. The possessors of firearms, shikaris, target-shooters and riflemen in general (in appropriate age-groups) will be of service to the country in emergencies if the Government can properly mobilise and utilise them. Hence in my Firearms Bill, 1 of 1959, I had proposed in clause 9 for the liability of holders of licenses and permits, except those excepted individually or in specified categories for call-up in national emergencies under terms and conditions as may be prescribed.

Lastly:—While revising the outmoded Arms laws, I appeal for a positive and not for a negative approach which is essential in every sphere of national life and activity. I am one of those who firmly believe that changes in the Arms Act should be effected with a view to enthuse the people and at the same time, to train and organise the youth of the country for better discipline and for national defence.

NEW DELHI; UMA CHARAN PATNAIK.
The 6th August, 1959.

III

I take liberty to append the following few lines in order to express my personal disagreement regarding the Bill, apart from those provided therein.

The Indian Arms Act has an insipid history behind it. After Indian War of Independence of 1857 the British Rulers, being horrified by the armed might of the common man of India, deprived the whole nation of arms. They unarmed the people by putting ban on possessing and carrying the same. They denied the right of self-defence to every citizen; obviously their aim was to minimize the chances of an armed rebellion against the foreign rule, while apparently they argued that if people were permitted an unhindered use of arms, the horrible spectacle of organised crimes could break out all over the country. Thus the Indians, once famous fighters, were rendered mere strangers to the use of arms. This object was further acheived by Act XXXI of 1860 wherein the definitions of the expressions "Arms" and "Ammunition" were widened and the executive restrictions in the matter of grant of licences, not only in relation to manufacture and sale, but also to the use and

possession of arms were tightened. There was hardly any weapon of offence or defence which was not covered by the definition. Act XI of 1878 provided for disarming any Province, District or Village and made it unlawful for anyone to possess arms and ammunition without a licence. Thus the chivalrous nation of Rani Laxmi Bai, Tantia Tope and Tipu Sultan was cowed down, subjugated and totally emasculated.

How ludicrous it is that amended in minor details by Acts XII of 1891, XX of 1919 and XLIX of 1929, the spirit of Act XI of 1878 remains the same even now, when India became free from bondage.

It was only in December, 1958 that the Hon. Home Minister while replying to the debate on an unofficial Bill regarding the exemption of Muzzle Loading Gun from the definition of the Firearms Act, announced that a comprehensive Bill on Arms Law would be introduced very shortly. Expectations rose high that the Arms Laws will be liberalised and modernised to such an extent as to befit an independent nation. But to our disappointment all hopes have been shattered and a piece of legislation has been brought, which is a prototype of an old and hackneyed Arms Act of 1878 with minor changes here and there. The present law is full of teeth and with all dental operations it has accomplished little. It helps the crooks and hurts the law-abiding citizens. Definition of arms as given in the Bill should be confined only to firearms, but here in the Arms Bill, 1958 the term 'Arms' includes sharp-edged and other deadly weapons. I vehemently oppose this idea and suggest that this Bill should not include any weapons other than firearms. It is the birth right of every citizen to possess arms for the protection of his property and personal safety. But strangely it has reduced to nullity by refusing him to possess arms. Hence it is desirable that it should be named as "Fire Arms Bill, 1958" and not the "Arms Bill, 1958".

The Bill has only been liberalised to the extent that the licensing Authority cannot refuse "to grant any licence to any person, merely on the ground that such person does not own or possess sufficient property". But the term "sufficient property" has not been properly defined. In my opinion the license should be made available to any citizen of India except those who are either beggars or vagabonds or persons who are convicted for anti-social crimes.

During the discussion some of the members of the "Joint Select Committee" were of the opinion that a muzzle loading gun of the low velocity, :22 bore smallbore rifle of low velocity using rim fire cartridges and air rifles should be exempted from the restriction of a license as these are quite indispensable for crop protection.

But our wishes were not conceded to. In foreign countries the citizens are required to possess firearms not as a privilege but as a part of their duty towards their motherland. We as a nation are running deficit in food grains. It is essential that the minimum amount of our food crops may be damaged and this can only be achieved if the cultivators are induced to possess harmless muzzle loading guns and there should be no license fee for such arms.

The Sub-Divisional Officers should be authorised to issue licences for the muzzle loading gun.

I fell that the Gram Panchayats should be given the right to enquire into and recommend the application for the grant of a licence, as the Panchayats are better in the know of the conduct of the applicants than the executive authorities who take a lot of time to complete their report. But the Panchayats were held "irresponsible" by the Government. It is highly regrettable.

Further, I suggest it should be made obligatory for every applicant to undergo a training in handling a firearm before a licence is granted to him. In other countries the training in small-arms is not considered merely a right but a duty of the citizen. But in our country the arms usually pass on to the hands of untrained persons. It is unfortunate that firearms as a rule are a luxury of such persons who use them for ornamental purposes.

Firearms in the hands of trained persons ensure them safety from dacoits, miscreants, make them strong and disciplined and at the time of emergency formulates a second line of defence.

In U.K. a game license is required for shooting or taking out a gun under the gun license Act. A gun license is required before a shot gun or its cartridge is carried outside the house (no gun license is required for having a gun or its cartridge within a house). Game and gun licences are obtainable at port offices and county councils' offices.

In U.S.A. the term fire arms does not include any rifle if the calibre of such rifle is ·22 or small and its barrel is 16" or more in length. But in India the possession of an arm is an exception and is generally granted to a few whose loyalty to the bureaucracy is undoubted and they are at the mercy of Police Officers who have the powers to recommend for the grant of firearms. Law breakers and dacoits are having unlimited supply of weapons, either locally-manufactured, illicitly imported, stolen from government armouries or depots but the law-abiding citizens have not got weapons for defending their person and property. This state of affairs should no longer be allowed and every citizen of India of 16 years and over should be

granted a licence for firearms when applied for, without putting any barrier against him.

I further suggest that the passing of shooting test should be a part of curriculum in all educational institutes where the age limit is 16 years or over. In U.K. the granting of licenses for possessing a firearm is as a rule free from all executive obstacles and bureaucratic officiousness. In India too the firearms Act deserves to be remodelled as its counter-part in England. But it is a dream to us and God knows when it will materialise.

A licence for ·22 bore rifle is only limited to the trainees in rifle clubs or rifle associations, while this right has been denied to those who have to practise target shooting privately at home. I feel that the law should be liberalised to facilitate those persons. The licensing authority should not be appellate authority and the appellate authority should be Commissioner of the Division. Regarding, Class 17, sub-clause 10, the position is that after the suspension or revocation of a license the arms and the ammunition are to be surrendered to the authority and are to be deposited in the 'Malkhana'; where they deteriorate. I suggest that the licensees after suspension or revocation should get the market price of the arms and ammunition forthwith in order to save their arm from annihilation.

In India Arms Rule 1951 under Schedule I, a privileged class has been established whereby they are exempted in respect of arms and ammunition. This is quite undemocratic and discriminatory. As according to Fundamental Rights laid down in our Constitution all citizens of the Republic of India are equal in the eyes of law, so I suggest that these exemptions should be abolished.

Clause 20 *about arrest of persons carrying firearms and ammunition.*—This clause provides very wide powers to the government servants employed even in non-administrative position. I suggest that some safeguard may be provided to the citizens of our land from undue harassment. The arms and ammunition when covered with license should not come under the purview of the clause and the non-administrative officials below the rank of II Class government officials should not be empowered to arrest the persons without warrant unless there are certain reasons to believe that the arms and ammunitions are to be used for unlawful and subversive activities.

Clauses 25, 26, 27, 28.—The penalties proposed for the offences are very severe and suitable steps should be taken to see that they are in conformity with the condition prevalent in other free countries.

Clause 35.—In this clause combined responsibility has been imposed on persons who are living jointly in a premises and in other places in joint occupation or under the joint control of several persons. This is highly unjustified. Formation of Joint Cooperative Societies and Joint Agriculture Farms is being envisaged in the near future. I do not find any reason why every person is held responsible for the misdeeds of others in a joint society or a cooperative farm. The burden of proof lies only the culprits to prove their innocence.

It is regrettably noted that no liberal policy has been adopted in the Bill to issue licenses to the women in our country. As a rule when women apply for firearms a liberal policy may be adopted to issue a license on concessional fee. The women should be trained in the use of firearms. A lot of trouble or lawlessness prevailing in the society will be removed when women are trained and encouraged to face many anti-social elements in the society. We rightly anticipated that there will be less cases of robbery and rape in the society under those circumstances.

I suggest the license should be replaced by certificate.

The village Defence societies which are lying defunct in the rural areas of the country should be remodelled and rejuvenated. They should be given firearms by the Government and a reasonable quantity of ammunition may be put at their disposal in order to face the day to day unsocial activities of the dacoits and the miscreants. The members of the Defence Society should be adequately trained and their morale should be enhanced. It is desirable if any member of the society dies in discharge of his duty proper provision should be made for the maintenance of his dependents and his services should be properly recognised.

On either sides *i.e.*, East and West Pakistan border and those areas which are infested with dacoits, condition for granting licenses should be slackened to such an extent as to provide arms licences to each and everybody if he or she so desires. As a matter of national interest a subsidy and loan for the purchase of fire-arms should be granted to the inhabitants of the area, so that they can with self-confidence, face the invaders. Special provisions should be made to train them to handle fire-arms. I do not share the views of those who think that the relaxation of law of Arms would lead to the commission of more henious crimes and a deterioration in the crime situation. I feel that judicious relaxation in granting licences will deter the law breaking element of the society. Instances have shown that the dacoits and the robbers avoid making their depredation in villages where there are several licence holders in the village.

A free grant of license, large-scale manufacture of firearms and ammunition and the cheap supply of the same will ease the situation to a great extent. Further net-work of rifle clubs with proper training facilities will, apart from imparting a spirit of self-reliance and self-help and fearlessness, go a long-way in setting a second line of defence and an effective check for law-breakers.

I strongly suggest that expansion of markmanship training under government supervision be made forthwith. It could eventually convert all able-bodied citizens into a national military asset.

It is said that it is the business of police to protect the people of the country and their properties, individually and collectively. But when the police officers are themselves being looted, how a common man can be protected.

NEW DELHI; MOHAN SWARUP.
The 7th August, 1959.

IV

I regret I cannot agree with the views of the majority of the Committee. The Committee has made some changes in the Bill, but I feel that the measure is more restrictive than it should be.

The Arms Act of 1878 was enacted by the British Government to disarm the people of India for their own safety and security. Now we are a sovereign and independent nation, and therefore there should be as few restrictions as possible for acquiring and possessing arms. I am of the opinion that the reduction of restrictions to a minimum will not have any adverse effect on the law and order situation. For example, in many former Indian States there was no restriction on possessing fire-arms, and it did not have any adverse effect, but on the contrary it helped to maintain law and order. A certain class of people in Coorg are enjoying exemption from the Arms Act. The Sikhs are allowed to carry *kirpans*, and the Gurkhas are allowed to carry *Kukris*. All this did not have any adverse effect in the maintenance of law and order and peace. The only people to suffer by the imposition of more restrictions are the law abiding and peace loving citizens. They remain unarmed and unprotected, while the dacoits, offenders and such other anti-social people somehow get whatever arms they require for their unlawful activities.

I, therefore, feel that the people should be encouraged to possess fire-arms and to learn how to use them. For that purpose all types of air rifles, air guns, and Air pistols should be kept out of the operation of this Act. But unfortunately amendments of this nature were not accepted. I fail to understand how Air rifles, Air guns, and Air

pistols can be used for unlawful activities. Is it thought that air rifles and air guns will be used by dacoits and such other offenders? Air rifles and air guns and air pistols are not lethal weapons. No license is required to possess more deadly arms like swords, spears, and bows and arrows. So I think there is no reason to regulate the possession of air rifles, guns, and pistols.

According to clause 13 (3) (a) (i) licences will be granted to cultivators to possess muzzle loading guns for *bona-fide* crop protection. These guns become useless in monsoon, because the powder and percussion caps which are used to fire these guns become moist, and will not fire. Moreover, when these guns are once fired it takes a long time to reload them. If a cultivator fires a shot at a wild boar, and if the boar attacks, the cultivator will not be able to defend himself, because he will have no time to reload his gun and fire again at the attacking animal. On the other hand, if he has a breech-loading gun, he will be more safe, and will be able to protect his crops better. He should, therefore, be entitled to get a licence for a breech-loading gun if he chooses to have it for the protection of his crops. According to proviso to clause 13(3) (a) (i) authority has been given to the licensing authority to decide whether a cultivator should be given a licence for a breech-loading gun or not—I think this is not proper.

In clause 14(3) it has been provided that when the licensing authority refuses to grant a licence, it shall record in writing the reasons for the refusal, and also furnish the applicant with a statement summarising the reasons. It has also been laid down in the said clause that the licensing authority need not reveal to the applicant the reasons for denying him a licence if it thinks that it will not be in the public interest to do so. It is difficult to imagine any circumstances in which revealing the reasons for rejection will hurt public interest. In clause 18(1) there is a provision for appeal against the licensing authority's decision, and clause 18 (5) provides that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard. But if the appellate authority also agrees with the licensing authority that the reasons for refusing the licence cannot be disclosed, the appellant will be denied a reasonable opportunity of getting the licensing authority's decision revoked. I, therefore, feel that the licensing authority should not be given such wide and discretionary powers.

I also feel that the Bill should be confined to firearms only and other arms excluded from its purview.

THAKOR SHRI FATEHSINHJI GHODASAR.

NEW DELHI;

The 8th August, 1959.

We regret, we are unable to associate ourselves fully with the report of the majority of our colleagues in the Joint Committee. It is rather strange that a Bill professing itself to contain liberal provisions regarding licensing and seeking to reduce the inconveniences caused to the public in respect of requisition and possession of arms reveals on a careful scrutiny that the overall effect of passing the same as law of the country will be to impose severer and more drastic restrictions than those prevailing under the existing law. In our view the report of the majority has not succeeded in reducing the restrictions and inconveniences caused by the provisions of the Bill.

We believe that the Indian Arms Act of 1878 intended solely to disarm the Indian citizens to suit the convenience of the British Rulers must be replaced by an enactment which maintains the right of every free citizen of India to possess or acquire any kind of arms (whether firearms or not) consistent with the demand of the State to maintain public peace and security.

At the outset we may point out that the short title of the enactment itself must be changed as "Firearms Bill" and consistent with such change the definition of "Arms" contained in clause 2(1) (c) of the Bill should be omitted and consequential drafting changes must be made by substituting the word "firearms" for the words "arms" occurring in the various clauses of the Bill. The above change is suggested to take out of the ambit of the enactment the acquiring and possession of sharp-edged weapons like dagger, words, or even pen-knives.

We find that clause 4 of the Bill in the form in which it is accepted by the report of the majority will have dangerous consequences. Often armed dacoits and violent mobs attack innocent villagers and residents of a locality and if a notification as is contemplated in clause (4) is prevailing in that locality then these unfortunate persons will be without even ordinary weapons of defence such as knives, axe or hatchet. Even conceding that going about armed with knives or daggers or other arms other than firearms are to be prevented in a trouble spot, we are of the view that a person shall not be debarred from acquiring or possessing arms other than firearms in his place of residence with the intention of defending himself and his family from any unprovoked attack that may arise in a trouble spot. We suggest, therefore, that the words "acquisition, possession" along with the words "acquire, have in his possession or" occurring in clause (4) of the Bill should be deleted.

Then with regard to the procedure prescribed for obtaining a licence we feel that the liberalisation sought to be introduced is ren-

dered illusory by conferring arbitrary and unguided discretion on the licensing authority to refuse a license.

We find that in U. K. Firearms law a provision for appeal before the Quarter Session is provided in similar contingencies and we suggest that this can be allowed with advantage by making suitable provision for an appeal before the judiciary (say the District and Sessions Court) from an order refusing to grant a license. The present provision for an appeal before the Executive authority, we believe, cannot serve any useful purpose since more often that not official redtapism has evolved the foot-rule of confirming the orders of the subordinate officers.

NEW DELHI;
The 8th August, 1959.

N. C. SEKHAR
K. K. WARIOR
HIRENDRANATH MUKHERJEE*

VI

As I do not agree, in certain respects with the views of the majority of members of the Committee, I deem it necessary to express my views of dissent in a separate note.

The Arms Bill has been introduced with a view to liberalise the law about acquisition and possession of arms. But in my opinion, some provisions of this Bill which seek to impose restrictions on possession of sharpe-edged but simple arms like daggers are not in consonence with this avowed policy.

The Act should regulate the acquisition and possession of firearms only. But this Bill provides to regulate the acquisition and possession of not only the firearms but the simple arms as well. Of course, it is true that the restrictions on possession of such ordinary arms are to be imposed only during emergency and when the Central Government thinks it necessary or expedient to do so. But even then it is not necessary to incorporate these provisions in this Bill. Criminal Procedure Code, Police Act and other existing penal laws are quite sufficient and adequate to meet any such emergency. Moreover, as these sections are to be invoked only during emergency, it will be difficult to enforce this law effectively. It will not serve any useful purpose. On the contrary, there is every possibility that this law will be misused to harass innocent and peace-loving citizens.

Air-rifles should have been completely exempted from the provisions of this Bill. Air-rifle is entirely different from other firearms.

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*Certificate required under direction 87 of the 'Directions by the Speaker under the Rules of Procedure of Lok Sabha' not furnished.

It is not a dangerous weapon. It is mostly used for target practice. If we desire that the people should be able to defend themselves against the foreign invaders or local robbers, dacoits, hooligans and other anti-social elements, then it is not sufficient to arm them. It is essential to train the civilian populace in marksmanship. Already very few facilities are provided for training and practice in marksmanship. Any restrictions on use and possession of air-rifles will hamper the progress in this respect.

If the people are to be proficient in shooting, the training should be imparted to them at an early age. According to the provisions of this Bill, no person who has not attained the age of sixteen can obtain a licence for possession of an air-rifle. Even for target practice, licences in respect of air-rifles are to be given only to the members of rifle clubs or associations recognised by the Central Government. There are exceptionally few places in India where there are rifle clubs or associations. It means that where there are no clubs, no individual person who has not attained the age of sixteen, can obtain a licence for possession of an air-rifle even for target practice. The result is obvious. A large number of young persons desirous of training themselves in marksmanship will be deprived of such opportunity.

For these reasons, it is submitted that the air-rifles should be exempted from the provisions of this Act. If for any reason it is not acceptable, then at least the provision should be made in this Act itself to allow the young boys who have attained the age of twelve years to possess and use air-rifles for target practice irrespective of whether they are members of any rifle club or not so that they can get proper opportunities to develop themselves into perfect marksmen

BOMBAY;

The 7th August, 1959.

B. D. KHOBARAGADE

VII

1. Generally I am in agreement with the conclusions of the majority of the members of the Committee and I agree with the report as a whole. However, I find it necessary to make a few observations on some of the sections. The statement of objects and reasons refers to the liberal policy the Government have followed after independence. It is in agreement with "that view of" liberalizing the policy, I am adding this note.

2. It is a well known fact that an ordinary citizen, especially a villager, used to find it very difficult to obtain a licence for even

an ordinary gun without pleasing the police authorities. No doubt the licensing authority is a District Magistrate or some other responsible officer. Even then the licences are not issued without consulting the police authorities. This led to considerable corruption also. I am not inclined to think the conditions have very much improved in this matter, after we have attained independence. I am anxious that an ordinary citizen like a farmer should be able to get the required licence without any difficulty and it should not depend on the favourable disposition of the police officials. I represent an area (Coorg) where under the exemption granted by the rules framed under the old Arms Act Coorg, (Kodawas) and Jumma tenure holders are allowed to own certain kind of fire-arms without a licence (*vide* Schedule 1, Rule 4 of the Indian Arms Rules, 1951). They have enjoyed this privilege ever since the fire-arms were known and nothing untoward has happened there. In fact late Sardar Vallabh Bhai Patel is reported to have remarked that if people were like Coorgis he would grant such exemption to all parts of India. I wish very much the Government could go to the extent of allowing the whole of India some privileges as are enjoyed in Coorg. However, this may not be possible to do so under the present conditions.

3. The following points may be considered and the Bill liberalised at least to that extent.

Section 2(*c*): By using the word "solely" in this definition, there is scope for contending and interpreting that weapons even designed for domestic purposes but which may be used for other purposes as "weapons". Hence, I suggest that the word "solely" may be omitted.

Section 13: Clause 3(b): The burden is on the applicant for licence to prove that he "has a good reason for obtaining the same". I am of the view that the burden should be shifted on the persons who wish to restrict the rights of an independent citizen at least with regard to the license under sections 4, 5 and 6.

Section 14 (1) (*b*) 3: By this single clause the entire liberalising policy of the Government is in danger. Though under Section 13 Clause 3 (a) (i) and (ii) the granting of licence should be the rule and not granting should be the exception, the effect of this clause is taken away by the use of the words in sub-clause (3) namely, "to be for any reason unfit for licence for this act." It is so wide that any one can be refused a licence.

Section 18: This section providing an appeal to higher authorities assumes considerable importance in view of the provisions of section 14. No doubt, a departmental appeal is allowed. But I

think, it is completely inadequate. I am of the opinion that an appeal should be provided to the highest judicial authority of the area, a District Judge or a similar Officer. As I have already stated, it is usually the police that control the issue of these licences. In fact, in the course of evidence it was admitted that the issue of licenses did not often depend on the merits of each case, but on the percentage allowed by the authorities. This position has led to considerable corruption also. There is an impression in the country that licences cannot be procured without satisfying the police and other authorities. This position will entirely change if an appeal is allowed to the District Judge. In England, an appeal to the Judicial authority is provided. The only argument put forward against such a provision, here, is that the District Judge may not be able to appreciate the law and order situation of the area. It is too difficult to understand this argument that a judicial officer of the status of a District Judge will not be able to appreciate the situation. On the other hand, it creates the impression that the department is not prepared to trust the judiciary. Further, it gives additional strength to the impression that the Police authorities have the final say in the matter, as it is only a departmental appeal. Not only justice should be done, but should appear to be done. Every citizen who applies for a licence should be satisfied that the justice will be done to him and he need not depend on the favours of the Police authorities. Hence, I am of the view that an appeal either to the District Judge or where there is no such Judge to the Judicial authority who is discharging the functions of a District Judge, should be provided for.

4. I have referred to the position of the Coorgis and Jumma holders of Coorg. The present act is for liberalizing the Arms Act and I would like to point out that at least the *status quo* in Coorg should be maintained under the rules to be framed under section 41 of the Act.

NEW DELHI; K. R. ACHAR

The 8th August, 1959.

VIII

The present Bill seeks to repeal the Indian Arms Act enacted by the British rulers eighty years ago with a view to disarm the whole nation. Apart from the considerations of safeguarding the Empire, this policy of depriving the whole people of arms was motivated in the main by a sense of deep distrust and an attitude of contempt towards the Indian people. I am sorry to note that even after twelve years of independence, the present Government have not been able

to shake off completely the legacy of their predecessors. The present Bill as reported by the Joint Committee is an improvement on the original Bill no doubt, but traces of this distrust linger still, and restrain the Bill from going as far it should. Hence this note of dissent.

The right to bear and carry arms is an inviolable and sacred right of every free citizen and though this has not been included in the list of fundamental rights enumerated in the Indian Constitution, the right of self-defence accepted and guaranteed by the Indian Penal Code implicitly acknowledges the right to possess arms. Since India is not in a position to run into a race of armaments with big Powers, or their satellites, surrounding our boundaries and having hostile and expansionist designs against us, the only course open for us is to arm our people and make military training compulsory for all adult and able bodied citizens.

I strongly feel that provisions of the present Bill should have been confined to firearms only. As regards arms, other than firearms, every citizen should be normally allowed to possess and carry them and even in cases of emergency, envisaged under Clause 4 of the present Bill, restrictions ought to be placed only on stock-piling or carrying of arms and not on their possession. The Home Secretary of the Punjab in his evidence before the Committee has clearly stated that the fact that Sikhs have a right to possess and carry *kripans* with them under the Constitution has not adversely affected the law and order situation in the State in any way. There is no reason why any discrimination be made between Sikhs and non-Sikhs so far as the possession and carrying of arms, other than firearms, for the purpose of self-defence, is concerned. In cases of emergency, the government can impose reasonable restrictions on the display of such arms and for that Police Acts or provisions of the Indian Penal Code are adequate and no special powers, as provided for under the present Bill, should be required.

Under Clause 2 of the present Bill, the definition of the term "Arms" is very wide. It includes all articles of any description designed or adapted as weapons for offence or defence. Articles designed solely for domestic or agricultural uses and weapons incapable of being used otherwise than as toys or of being converted into serviceable weapons, have been excluded; but "sharp-edged, and other deadly weapons" should be precisely defined so as not to leave any room for doubt or confusion.

The present Bill seeks to liberalise the licensing provisions, but the liberalisation is very halting, the procedure of securing a licence

still remains irksome and dilatory, and the licence-seeker left to the whims and caprices of the bureaucracy.

Clause 14 empowers the licencing authority to refuse a licence on the ground that "such licence is required by a person whom the licensing authority has reason to believe to be for any reason unfit for a licence". Furthermore, he can refuse even to furnish reasons for such refusal if he thinks that it will not be in "the public interest" to do so. Now if licensing authorities are to refuse licences "for any reason" and are not even to be called upon to disclose these reasons, the avowed object of liberalising the licensing provisions will be nullified. The power conferred by clause 14(b)(3) is likely to be abused or misused to cloak acts of political discrimination, extremely rampant these days in respect of grant of licenses. It is for the Lok Sabha to amend this clause in such a way as to make it obligatory for the licensing authority to furnish a statement recording reasons for the refusal of licenses in all cases without any exception.

In regard to clause 13, the licensing authority should not be given the discretion of refusing to grant a licence of a smooth bore gun, sought for crop protection. A muzzle loading gun cannot be operated upon during the training season. Hence granting of licences for other smooth bore guns for the purpose of crop protection should not depend upon the discretion of the authorities but should be made obligatory. I would like to go a step forward and suggest that farmers should be given licences freely even for breach-loading guns so that it could serve both the purposes namely, protection of the person and protection of his crop.

Clause 18 of the Bill provides for appeals against the order of the licensing authority. But the appellate authority envisaged in the Bill is to be an executive officer. I strongly feel that if new provisions providing for appeals are to be of any real advantage to the people, the appeals should lie to a judicial authority who will bring upon his judicial mind in order to see whether the reasons due to which licence is refused are strictly legal and whether relevant provisions of the law have been applied or not.

Under clause 20 the power of arrest of persons conveying arms etc. under suspicious circumstances has been conferred not only upon "magistrates or police officers" but also any other public servant or any person employed or working upon a railway... It means that a railway porter who knows nothing about the Arms Act may arrest or detain any *bona fide* passenger on mere suspicion. The clause confers very wide powers upon those who are likely to abuse them. It should be suitably amended.

I regret to note that it has not been possible for the Committee to provide for the early disposal of applications for licences. I know cases in which applications are kept pending for years together and no action is taken unless cerain pressure, official or otherwise, is put on the licensing authority. To avoid inordinate delays in granting licences, it is necessary that some time limit should be fixed within which an application for licence must be disposed of. The Government have promised to issue instructions to the Executive to see that issuing of licences is expedited. But experience of executive instructions gained so far is not very heartening. Any how if procedure of issuing licences is not simplified and effective steps taken to expedite the matters the whole purpose of libralisation will be defeated.

NEW DELHI;
The 8th August, 1959.

ATAL BIHARI VAJPAYEE

THE ARMS BILL, 1958

ARRANGEMENT OF CLAUSES

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2. Definitions and interpretation.

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46. Repeal of Act 11 of 1878.

Bill No. 138 B of 1958.

THE ARMS BILL, 1958

(AS AMENDED BY THE JOINT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions)

A

BILL

to consolidate and amend the law relating to arms and ammunition.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Arms Act, 1959.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions and interpretation.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "acquisition", with its grammatical variations and cognate expressions, includes hiring, borrowing, or accepting as a gift;

(*b*) "ammunition" means ammunition for any firearm, and includes—

(*i*) rockes, bombs, grenades, shells and other like missiles,

(*ii*) articles designed for torpedo service and submarine mining,

(*iii*) other articles containing, or designed or adapted to contain, explosive, fulminating or fissionable material or noxious liquid, gas or other such thing, whether capable of use with firearms or not,

(*iv*) charges for firearms and accessories for such charges,

(*v*) fuses and friction tubes,

(*vi*) parts of, and machinery for manufacturing, ammunition, and

(*vii*) such ingredients of ammunition as the Central Government may, by notification in the Official Gazette, specify in this behalf;

(*c*) "arms" means articles of any description designed or adapted as weapons for offence or defence, and includes firearms, sharpedged and other deadly weapons, and parts of, and machinery for manufacturing, arms, but does not include articles designed solely for domestic or agricultural uses and weapons incapable of being used otherwise than as toys or of being converted into serviceable weapons;

(*d*) "district magistrate", in relation to a presidency-town or the city of Hyderabad, means the Commissioner of Police thereof;

(*e*) "firearms" means arms of any description designed or adapted to discharge a projectile or projectiles of any kind by the action of any explosive or other forms of energy, and includes—

(*i*) artillery, hand-grenades, riot-pistols or weapons of any kind designed or adapted for the discharge of any noxious liquid, gas or other such thing,

(*ii*) accessories for any such firearm designed or adapted to diminish the noise or flash caused by the firing thereof,

(*iii*) parts of, and machinery for manufacturing, firearms, and

(*iv*) carriages, platforms and appliances for mounting, transporting and serving artillery;

(*f*) "licensing authority" means an officer or authority empowered to grant or renew licences under rules made under this Act, and includes the Government;

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

(*h*) "prohibited ammunition" means any ammunition containing, or designed or adapted to contain, any noxious liquid, gas or other such thing, and includes rockets, bombs, grenades, shells, articles designed for torpedo service and submarine mining and such other articles as the Central Government may, by notification in the Official Gazette, specify to be prohibited ammunition;

(*i*) "prohibited arms" means—

(*i*) firearms so designed or adapted that, if pressure is applied to the trigger, missiles continue to be discharged until pressure is removed from the trigger or the magazine containing the missiles is empty, or

(*ii*) weapons of any description designed or adapted for the discharge of any noxious liquid, gas or other such thing, and includes artillery, anti-aircraft and anti-tank firearms and such other arms as the Central Government may, by notification in the Official Gazette, specify to be prohibited arms;

(*j*) "public servant" has the same meaning as in section 21 of the Indian Penal Code; 45 of 1860.

(*k*) "transfer", with its grammatical variations and cognate expressions, includes letting on hire, lending, giving and parting with possession.

(2) For the purposes of this Act, the length of the barrel of a firearm shall be measured from the muzzle to the point at which the charge is exploded on firing.

CHAPTER II

ACQUISITION, POSSESSION, MANUFACTURE, SALE, IMPORT, EXPORT AND TRANSPORT OF ARMS AND AMMUNITION

Licence for acquisition and possession of firearms and ammunition.

3. No person shall acquire, have in his possession, or carry any firearm or ammunition unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder:

Provided that a person may, without himself holding a licence, carry any firearm or ammunition in the presence, or under the written authority, of the holder of the licence for repair or for renewal of the licence or for use by such holder * * *.

Licence for acquisition and possession of arms of specified description in certain cases.

4. If the Central Government is of opinion that having regard to the circumstances prevailing in any area it is necessary or expedient in the public interest that the acquisition, possession or carrying of arms other than firearms should also be regulated, it may, by notification in the Official Gazette, direct that this section shall apply to the area specified in the notification, and thereupon no person shall acquire, have in his possession or carry in that area arms of such class or description as may be specified in that notification unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder.

Licence for manufacture, sale, etc., of arms and ammunition.

5. No person shall—

(*a*) manufacture, sell, transfer, convert, repair, test or prove,

or

(*b*) expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof,

any firearm or any other arms of such class or description as may be prescribed or any ammunition, unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder:

Provided that a person may, without holding a licence in this behalf, sell or transfer any arms or ammunition which he lawfully possesses for his own private use to another person who is entitled by virtue of this Act or any other law for the time being in force to have, or is not prohibited by this Act or such other law from having, in his possession, such arms or ammunition; but the person who has sold or transferred any firearm or ammunition in respect of which a licence is required under section 3 or any arms in respect of which a licence is required under section 4, shall, immediately after the sale or transfer, inform in writing the district magistrate having jurisdiction or the officer in charge of the nearest police station, of such sale or transfer and the name and address of the other person to whom the firearm, ammunition or other arms has or have been sold or transferred.

Licence for the shortening of guns or conversion of imitation firearms into firearms.

6. No person shall shorten the barrel of a firearm or convert an imitation firearm into a firearm unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder.

Explanation.—In this section, the expression "imitation firearm" means anything which has the appearance of being a firearm, whether it is capable of discharging any shot, bullet or other missile or not.

7. No person shall—

(*a*) acquire, have in his possession or carry; or

(*b*) manufacture, sell, transfer, convert, repair, test or prove; or

(*c*) expose or offer for sale or transfer or have in his possession for sale, transfer, conversion, repair, test or proof;

Prohibition of acquisition or possession, or of manufacture or sale, of prohibited arms or prohibited ammunition.

any prohibited arms or prohibited ammunition unless he has been specially authorised by the Central Government in this behalf.

8. (*1*) No person shall obliterate, remove, alter or forge any name, number or other identification mark stamped or otherwise shown on a firearm.

Prohibition of sale or transfer of firearms not bearing identification marks.

(*2*) No person shall sell or transfer any firearm which does not bear the name of the maker, manufacturer's number or other identification mark stamped or otherwise shown thereon in a manner approved by the Central Government.

(*3*) Whenever any person has in his possession any firearm without such name, number or other identification mark or on which such name, number or other identification mark has been obliterated, removed, altered or forged, it shall be presumed unless the contrary is proved, that he has obliterated, removed, altered or forged that name, number or other identification mark:

Provided that in relation to a person who has in his possession at the commencement of this Act any firearm without such name, number or other identification mark stamped or otherwise shown thereon, the provisions of this sub-section shall not take effect until after the expiration of one year from such commencement.

9. (*1*) Notwithstanding anything in the foregoing provisions of this Act,—

Prohibition of acquisition or possession by, or of sale or transfer to young persons and certain other persons of firearms, etc.

(*a*) no person,—

(*i*) who has not completed the age of sixteen years, or

(*ii*) who has been sentenced on conviction of any offence involving violence or moral turpitude to imprisonment for a term of not less than six months, at any time during a period of five years after the expiration of the sentence, or

(*iii*) who has been ordered to execute under Chapter VIII of the Code of Criminal Procedure, 1898, a bond for keeping the peace or for good behaviour, at any time during the term of the bond,

5 of 1898.

shall acquire, have in his possession or carry any firearm or ammunition;

(*b*) no person shall sell or transfer any firearm or ammunition to, or convert, repair, test or prove any firearm or ammunition for, any other person whom he knows, or has reason to believe—

(*i*) to be prohibited under clause (*a*) from acquiring, having in his possession or carrying any firearm or ammunition, or

(*ii*) to be of unsound mind at the time of such sale or transfer, or such conversion, repair, test or proof.

(*2*) Notwithstanding anything in sub-clause (*i*) of clause (*a*) of sub-section (*1*), a person who has attained the prescribed age-limit may use under prescribed conditions such firearms as may be prescribed in the course of his training in the use of such firearms:

Provided that different age-limits may be prescribed in relation to different types of firearms.

Licence for import and export of arms, etc.

10. (*1*) No person shall bring into, or take out of, India by sea, land or air any arms or ammunition unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder:

Provided that—

(*a*) a person who is entitled by virtue of this Act or any other law for the time being in force to have, or is not prohibited by this Act or such other law from having, in his possession any arms or ammunition, may without a licence in this behalf bring into, or take out of, India such arms or ammunition in reasonable quantities for his own private use;

(*b*) a person being a *bona fide* tourist belonging to any such country as the Central Government may, by notification in the Official Gazette, specify, who is not prohibited by the laws of that country from having in his possession any arms or ammunition, may, without a licence under this section but in accordance with such conditions as may be prescribed, bring with him into India arms and ammunition in reasonable quantities for use by him for purposes only of sport and for no other purpose;

Explanation.—For purposes of clause (*b*) of this proviso, the word "tourist" means a person who not being a citizen of India visits India for a period not exceeding six months with no other object than recreation, sight-seeing, or participation in a

representative capacity in meetings convened by the Central Government or in international conferences, associations or other bodies.

(2) Notwithstanding anything contained in the proviso to sub-section (1), where the collector of customs or any other officer empowered by the Central Government in this behalf has any doubt as to the applicability of clause (*a*) or clause (*b*) of that proviso to any person who claims that such clause is applicable to him, or as to the reasonableness of the quantities of arms or ammunition in the possession of any person referred to in such clause, or as to the use to which such arms or ammunition may be put by such person, may detain the arms or ammunition in the possession of such person until he receives the orders of the Central Government in relation thereto.

(3) Arms and ammunition taken from one part of India to another by sea or air or across any intervening territory not forming part of India, are taken out of, and brought into, India within the meaning of this section.

Power to prohibit import or export of arms, etc.

11. The Central Government may, by notification in the Official Gazette, prohibit the bringing into, or the taking out of, India, arms or ammunition of such classes and descriptions as may be specified in the notification.

Power to restrict or prohibit transport of arms.

12. (*1*) The Central Government may, by notification in the Official Gazette,—

(*a*) direct that no person shall transport over India or any part thereof arms or ammunition of such classes and descriptions as may be specified in the notification unless he holds in this behalf a licence issued in accordance with the provisions of this Act and the rules made thereunder; or

(*b*) prohibit such transport altogether.

(2) Arms or ammunition trans-shipped at a seaport or an airport in India are transported within the meaning of this section.

CHAPTER III

PROVISIONS RELATING TO LICENCES

Grant of licences.

13. (*1*) An application for the grant of a licence under Chapter II shall be made to the licensing authority and shall be in such form, contain such particulars and be accompanied by such fee, if any, as may be prescribed.

(2) On receipt of an application, the licensing authority, after making such inquiry, if any, as it may consider necessary, shall, subject to the other provisions of this Chapter, by order in writing either grant the licence or refuse to grant the same.

(3) The licensing authority shall grant—

(a) a licence under section 3 where the licence is required—

(i) by a citizen of India in respect of a smooth bore gun having a barrel of not less than twenty inches in length to be used for protection or sport or in respect of a muzzle loading gun to be used for *bona fide* crop protection: *

Provided that where having regard to the circumstances of any case, the licensing authority is satisfied that a muzzle loading gun will not be sufficient for crop protection, the licensing authority may grant a licence in respect of any other smooth bore gun as aforesaid for such protection, or

(ii) in respect of a point 22 bore rifle or an air rifle to be used for target practice by a member of a rifle club or rifle association licensed or recognised by the Central Government;

(b) a licence under section 3 in any other case or a licence under section 4, section 5, section 6, section 10 or section 12, if the licensing authority is satisfied that the person by whom the licence is required has a good reason for obtaining the same.

Refusal of licences.

14. (1) Notwithstanding anything in section 13, the licensing authority shall refuse to grant—

(a) a licence under section 3, section 4 or section 5 where such licence is required in respect of any prohibited arms or prohibited ammunition;

(b) a licence in any other case under Chapter II,—

(i) where such licence is required by a person whom the licensing authority has reason to believe—

(1) to be prohibited by this Act or by any other law for the time being in force from acquiring, having in his possession or carrying any arms or ammunition, or

(2) to be of unsound mind, or

(3) to be for any reason unfit for a licence under this Act; or

(*ii*) where the licensing authority deems it necessary for the security of the public peace or for public safety to refuse to grant such licence.

(*2*) The licensing authority shall not refuse to grant any licence to any person merely on the ground that such person does not own or possess sufficient property.

(*3*) Where the licensing authority refuses to grant a licence to any person it shall record in writing the reasons for such refusal and furnish to that person on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

15. (*1*) A licence under section 3 shall, unless revoked earlier, continue in force for a period of three years from the date on which it is granted: Duration and renewal of licence.

Provided that such a licence may be granted for a shorter period if the person by whom the licence is required so desires or if the licensing authority for reasons to be recorded in writing considers in any case that the licence should be granted for a shorter period.

(*2*) A licence under any other provision of Chapter II shall, unless revoked earlier, continue in force for such period from the date on which it is granted as the licensing authority may in each case determine.

(*3*) Every licence shall, unless the licensing authority for reasons to be recorded in writing otherwise decides in any case, be renewable for the same period for which the licence was originally granted and shall be so renewable from time to time, and the provisions of sections 13 and 14 shall apply to the renewal of a licence as they apply to the grant thereof.

16. The fees on payment of which, the conditions subject to which and the form in which a licence shall be granted or renewed shall be such as may be prescribed: Fees, etc., for licence.

Provided that different fees, different conditions and different forms may be prescribed for different types of licences:

Provided further that a licence may contain in addition to prescribed conditions such other conditions as may be considered necessary by the licensing authority in any particular case.

Variation, suspension and revocation of licences.

17. (*1*) The licensing authority may vary the conditions subject to which a licence has been granted except such of them as have been prescribed and may for that purpose require the licence-holder by notice in writing to deliver-up the licence to it within such time as may be specified in the notice.

(*2*) The licensing authority may, on the application of the holder of a licence, also vary the conditions of the licence except such of them as have been prescribed.

(*3*) The licensing authority may by order in writing suspend a licence for such period as it thinks fit or revoke a licence,—

(*a*) if the licensing authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force, from acquiring, having in his possession or carrying any arms or ammunition, or is of unsound mind, or is for any reason unfit for a licence under this Act; or

(*b*) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or

(*c*) if the licence was obtained by the suppression of material information or on the basis of wrong information provided by the holder of the licence or any other person on his behalf at the time of applying for it; or

(*d*) if any of the conditions of the licence has been contravened; or

(*e*) if the holder of the licence has failed to comply with a notice under sub-section (*1*) requiring him to deliver-up the licence.

(*4*) The licensing authority may also revoke a licence on the application of the holder thereof.

(*5*) Where the licensing authority makes an order varying a licence under sub-section (*1*) or an order suspending or revoking a licence under sub-section (*3*), it shall record in writing the reasons therefor and furnish to the holder of the licence on demand a brief statement of the same unless in any case the licensing authority is of the opinion that it will not be in the public interest to furnish such statement.

(*6*) The authority to whom the licensing authority is subordinate may by order in writing suspend or revoke a licence on any ground on which it may be suspended or revoked by the licensing authority; and the foregoing provisions of this section shall, as far as may be, apply in relation to the suspension or revocation of a licence by such authority.

(7) A court convicting the holder of a licence of any offence under this Act or the rules made thereunder may also suspend or revoke the licence:

Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.

(8) An order of suspension or revocation under sub-section (7) may also be made by an appellate court or by the High Court when exercising its powers of revision.

(9) The Central Government may, by order in the Official Gazette, suspend or revoke or direct any licensing authority to suspend or revoke all or any licences granted under this Act throughout India or any part thereof.

(10) On the suspension or revocation of a licence under this section the holder thereof shall without delay surrender the licence to the authority by whom it has been suspended or revoked or to such other authority as may be specified in this behalf in the order of suspension or revocation.

Appeals.

18. (1) Any person aggrieved by an order of the licensing authority refusing to grant a licence or varying the conditions of a licence or by an order of the licensing authority or the authority to whom the licensing authority is subordinate, suspending or revoking a licence may prefer an appeal against that order to such authority (hereinafter referred to as the appellate authority) and within such period as may be prescribed:

Provided that no appeal shall lie against any order made by, or under the direction of, the Government.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The period prescribed for an appeal shall be computed in accordance with the provisions of the Indian Limitation Act, 1908, with respect to the computation of periods of limitation thereunder.

9 of 1908.

(4) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a brief statement of the reasons for the order appealed against where such statement has been furnished to the appellant and by such fee as may be prescribed.

(5) In disposing of an appeal the appellate authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

(6) The order appealed against shall, unless the appellate authority conditionally or unconditionally directs otherwise, be in force pending the disposal of the appeal against such order.

(7) Every order of the appellate authority confirming, modifying or reversing the order appealed against shall be final.

CHAPTER IV

POWERS AND PROCEDURE

Power to demand production of licence, etc.

19. (1) Any police officer or any other officer specially empowered in this behalf by the Central Government may demand the production of his licence from any person who is carrying any arms or ammunition.

(2) If the person upon whom a demand is made refuses or fails to produce the licence or to show that he is entitled by virtue of this Act or any other law for the time being in force to carry such arms or ammunition without a licence, the officer concerned may require him to give his name and address and if such officer considers it necessary, seize from that person the arms or ammunition which he is carrying * * * * *.

(3) If that person refuses to give his name and address or if the officer concerned suspects that person of giving a false name or address or of intending to abscond, such officer may arrest him without warrant.

Arrest of persons conveying arms, etc., under suspicious circumstances.

20. Where any person is found carrying or conveying any arms or ammunition whether covered by a licence or not, in such manner or under such circumstances as to afford just grounds of suspicion that the same are or is being carried by him with intent to use them, or that the same may be used, for any unlawful purpose, any magistrate, any police officer or any other public servant or any person employed or working upon a railway, aircraft, vessel, vehicle or any other means of conveyance, may arrest him without warrant and seize from him such arms or ammunition.

Deposit of arms, etc., on possession ceasing to be lawful.

21. (1) Any person having in his possession any arms or ammunition the possession whereof has, in consequence of the expiration of the duration of a licence or of the suspension or revocation of a licence or by the issue of a notification under section 4 or by any reason whatever, ceased to be lawful, shall without unnecessary

delay deposit the same either with the officer in charge of the nearest police station or subject to such conditions as may be prescribed, with a licensed dealer or where such person is a member of the armed forces of the Union, in a unit armoury.

Explanation.—In this sub-section "unit armoury" includes an armoury in a ship or establishment of the Indian Navy.

(*2*) Where arms or ammunition have or has been deposited under sub-section (*1*), the depositor or in the case of his death, his legal representative, shall, at any time before the expiry of such period as may be prescribed, be entitled—

(*a*) to receive back anything so deposited on his becoming entitled by virtue of this Act or any other law for the time being in force to have the same in his possession, or

(*b*) to dispose, or authorise the disposal, of anything so deposited by sale or otherwise to any person entitled by virtue of this Act or any other law for the time being in force to have, or not prohibited by this Act or such other law from having, the same in his possession and to receive the proceeds of any such disposal:

Provided that nothing in this sub-section shall be deemed to authorise the return or disposal of anything of which confiscation has been directed under section 32.

(*3*) All things deposited and not received back or disposed of under sub-section (*2*) within the period therein referred to shall be forfeited to Government by order of the district magistrate:

Provided that in the case of suspension of a licence no such forfeiture shall be ordered in respect of a thing covered by the licence during the period of suspension.

(*4*) Before making an order under sub-section (*3*) the district magistrate shall, by notice in writing to be served upon the depositor or in the case of his death, upon his legal representative, in the prescribed manner, require him to show cause within thirty days from the service of the notice why the things specified in the notice should not be forfeited.

(*5*) After considering the cause, if any, shown by the depositor or, as the case may be, his legal representative, the district magistrate shall pass such order as he thinks fit.

(*6*) The Government may at any time return to the depositor or his legal representative things forfeited to it or the proceeds of disposal thereof wholly or in part.

Search and seizure by magistrate.

22. (*1*) Whenever any magistrate has reason to believe—

(*a*) that any person residing within the local limits of his jurisdiction has in his possession any arms or ammunition for any unlawful purpose, or

(*b*) that such person cannot be left in the possession of any arms or ammunition without danger to the public peace or safety,

the magistrate may, after having recorded the reasons for his belief, cause a search to be made of the house or premises occupied by such person or in which the magistrate has reason to believe that such arms or ammunition are or is to be found and may have such arms or ammunition, if any, seized and detain the same in safe custody for such period as he thinks necessary, although that person may be entitled by virtue of this Act or any other law for the time being in force to have the same in his possession.

(*2*) Every search under this section shall be conducted by or in the presence of a magistrate or by or in the presence of some officer specially empowered in this behalf by the Central Government.

Search of vessels, vehicles for arms, etc.

23. Any magistrate, any police officer or any other officer specially empowered in this behalf by the Central Government, may for the purpose of ascertaining whether any contravention of this Act or the rules made thereunder is being or is likely to be committed, stop and search any vessel, vehicle or other means of conveyance and seize any arms or ammunition that may be found therein alongwith such vessel, vehicle or other means of conveyance.

Seizure and detention under orders of the Central Government

24. The Central Government may at any time order the seizure of any arms or ammunition in the possession of any person, notwithstanding that such person is entitled by virtue of this Act or any other law for the time being in force to have the same in his possession, and may detain the same for such period as it thinks necessary for the public peace and safety.

CHAPTER V

Offences and penalties

Punishment for certain offences.

25. (*1*) Whoever—

(*a*) acquires, has in his possession or carries any firearm or ammunition in contravention of section 3; or

(*b*) acquires, has in his possession or carries * * * * * in any place specified by notification under section 4 any arms of such class or description as has been specified in that notification, in contravention of that section; or

(*c*) manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof, any arms or ammunition in contravention of section 5; or

(*d*) shortens the barrel of a firearm or converts an imitation firearm into a firearm in contravention of section 6; or

(*e*) acquires, has in his possession or carries, or manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof, any prohibited arms or prohibited ammunition in contravention of section 7; or

(*f*) sells or transfers any firearm which does not bear the name of the maker, manufacturer's number or other identification mark stamped or otherwise shown thereon as required by sub-section (*2*) of section 8 or does any act in contravention of sub-section (*1*) of that section; or

(*g*) being a person to whom sub-clause (*ii*) or sub-clause (*iii*) of clause (*a*) of sub-section (*1*) of section 9 applies, acquires, has in his possession or carries any firearm or ammunition in contravention of that section; or

(*h*) sells or transfers, or converts, repairs, tests or proves any firearm or ammunition in contravention of clause (*b*) of sub-section (*1*) of section 9; or

(*i*) brings into, or takes out of, India any arms or ammunition in contravention of section 10; or

(*j*) brings into, or takes out of, India, arms or ammunition of any class or description in contravention of section 11; or

(*k*) transports any arms or ammunition in contravention of section 12; or

(*l*) fails to deposit arms or ammunition as required by sub-section (*1*) of section 21; or

(*m*) being a manufacturer of, or dealer in, arms or ammunition, fails, on being required to do so by rules made under section 44, to maintain a record or account or to make therein all such entries as are required by such rules or intentionally makes a false entry therein or prevents or obstructs the inspection of such record or account or the making of copies of entries therefrom or prevents or obstructs the entry into any premises or other place where arms or ammunition are or is manufac-

tured or kept or intentionally fails to exhibit or conceals such arms or ammunition or refuses to point out where the same are or is manufactured or kept;

shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) Whoever being a person to whom sub-clause (*i*) of clause (*a*) of sub-section (*1*) of section 9 applies, acquires, has in his possession or carries any firearm or ammunition in contravention of that section shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

(3) Whoever having sold or transferred any firearms or ammunition or other arms under the proviso to section 5 fails to inform the district magistrate having jurisdiction or the officer in charge of the nearest police station, of such sale or transfer shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to five hundred rupees, or with both.

(4) Whoever fails to deliver-up a licence when so required by the licensing authority under sub-section (*1*) of section 17 for the purpose of varying the conditions specified in the licence or fails to surrender a licence to the appropriate authority under sub-section (*10*) of that section on its suspension or revocation shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to five hundred rupees, or with both.

(5) Whoever, when required under section 19 to give his name and address, refuses to give such name and address or gives a name or address which subsequently transpires to be false shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to two hundred rupees, or with both.

Secret contraventions.

26. Whoever—

(*a*) does any act in contravention of any of the provisions of sections 3, 4, 5, 6, 7, 10, 11 or 12 in such manner as to indicate an intention that such act may not be known to any public servant or to any person employed or working upon a railway, aircraft, vessel, vehicle or any other means of conveyance; or

(*b*) on any search being made under section 22 conceals or attempts to conceal any arms or ammunition;

shall be punishable with imprisonment for a term which may extend to seven years, or with fine; or with both.

Punishment for possessing arms, etc., with intent to use them for unlawful purpose.

27. Whoever has in his possession any arms or ammunition with intent to use the same for any unlawful purpose or to enable any other person to use the same for any unlawful purpose shall, whether such unlawful purpose has been carried into effect or not, be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

Punishment for use and possession of firearms or imitation firearms in certain cases.

28. Whoever makes or attempts to make any use whatsoever of a firearm or an imitation firearm with intent to resist or prevent the lawful arrest or detention of himself or any other person shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both.

Explanation.—In this section the expression "imitation firearm" has the same meaning as in section 6.

Punishme for knowingly purchasing arms, etc., from unlicensed person or for delivering arms, etc., to person not entitled to possess the same.

29. Whoever—

(*a*) purchases any firearms or any other arms of such class or description as may be prescribed or any ammunition from any other person knowing that such other person is not licensed or authorised under section 5; or

(*b*) delivers any arms or ammunition into the possession of another person without previously ascertaining that such other person is entitled by virtue of this Act or any other law for the time being in force to have, and is not prohibited by this Act or such other law from having, in his possession the same;

shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to five hundred rupees, or with both.

Punishment for contravention of licence or rule.

30. Whoever contravenes any condition of a licence or any provision of this Act or any rule made thereunder, for which no punishment is provided elsewhere in this Act shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Punishment for subsequent offences.

31. Whoever having been convicted of an offence under this Act is again convicted of an offence under this Act shall be punishable with double the penalty provided for the latter offence.

Power to confiscate.

32. (*1*) When any person is convicted under this Act of any offence committed by him in respect of any arms or ammunition, it shall be in the discretion of the convicting court further to direct that the whole or any portion of such arms or ammunition, and any vessel, vehicle or other means of conveyance and any receptacle or thing containing, or used to conceal, the arms or ammunition shall be confiscated:

Provided that if the conviction is set aside on appeal or otherwise, the order of confiscation shall become void.

(2) An order of confiscation may also be made by the appellate court or by the High Court when exercising its powers of revision.

Offences by companies.

33. (*1*) Whenever an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, or was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate, and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

CHAPTER VI

MISCELLANEOUS

Sanction of Central Government for warehousing of arms.

34. Notwithstanding anything contained in the Sea Customs Act, 1878, no arms or ammunition shall be deposited in any warehouse licensed under section 16 of that Act without the sanction of the Central Government. 8 of 1878.

Criminal responsibility of persons in occupation of premises in certain cases.

35. Where any arms or ammunition in respect of which any offence under this Act has been or is being committed are or is found in any premises, vehicle or other place in the joint occupation or under the joint control of several persons, each of such persons in respect of whom there is reason to believe that he was aware of the existence of the arms or ammunition in the premises, vehicle or other place shall, unless the contrary is proved, be liable for that offence in the sme manner as if it has been or is being committed by him alone.

Information to be given regarding certain offences.

36. (*1*) Every person aware of the commission of any offence under this Act shall, in the absence of reasonable excuse the burden of proving which shall lie upon such person, give information of the same to the officer in charge of the nearest police station or the magistrate having jurisdiction.

(*2*) Every person employed or working upon any railway, aircraft, vessel, vehicle or other means of conveyance shall, in the absence of reasonable excuse the burden of proving which shall lie upon such person, give information to the officer in charge of the nearest police station regarding any box, package or bale in transit which he may have reason to suspect contains arms or ammunition in respect of which an offence under this Act has been or is being committed.

Arrest and searches.

37. Save as otherwise provided in this Act,—

(*a*) all arrests and searches made under this Act or under any rules made thereunder shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1898, relating respectively to arrests and searches made under that Code;

5 of 1898.

(*b*) any person arrested and any arms or ammunition seized under this Act by a person not being a magistrate or a police officer shall be delivered without delay to the officer in charge of the nearest police station and that officer shall—

(*i*) either release that person on his executing a bond with or without sureties to appear before a magistrate and keep the things seized in his custody till the appearance of that person before the magistrate, or

(*ii*) should that person fail to execute the bond and to furnish, if so required, sufficient sureties, produce that person and those things without delay before the magistrate.

Offences to be cognizable.

38. Every offence under this Act shall be cognizable within the meaning of the Code of Criminal Procedure, 1898.

5 of 1898.

Previous sanction of the district magistrate necessary in certain cases.

39. No prosecution shall be instituted against any person in respect of any offence under section 3 without the previous sanction of the district magistrate.

Protecion of action taken in good faith.

40. 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 under this Act.

Power to exempt.

41. Where the Central Government is of the opinion that it is necessary or expedient in the public interest so to do, it may by notification in the Official Gazette and subject to such conditions, if any, as it may specify in the notification,—

(*a*) exempt any person or class of persons, or exclude any description of arms or ammunition, or withdraw any part of India, from the operation of all or any of the provisions of this Act; and

(*b*) as often as may be, cancel any such notification and again subject, by a like notification, the person or class of persons or the description of arms and ammunition or the part of India to the operation of such provisions.

Power to take census of firearms.

42. (*1*) The Central Government may, by notification in the Official Gazette, direct a census to be taken of all firearms in any area and empower any officer of Government to take such census.

(*2*) On the issue of any such notification all persons having in their possession any firearm in that area shall furnish to the officer concerned such information as he may require in relation thereto and shall produce before him such firearms if he so requires.

Power to delegate.

43. (*1*) The Central Government may, by notification in the Official Gazette, direct that any power or function which may be exercised or performed by it under this Act other than the power under section 41 or the power under section 44 may, in relation to such matters and subject to such conditions, if any, as it may specify in the notification, be exercised or performed also by—

(*a*) such officer or authority subordinate to the Central Government, or

(*b*) such State Government or such officer or authority subordinate to the State Government,

as may be specified in the notification.

(*2*) Any rules made by the Central Government under this Act may confer powers or impose duties or authorise the conferring of powers or imposition of duties upon any State Government or any officer or authority subordinate thereto.

Power to make rules.

44. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

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

(*a*) the appointment, jurisdiction, control and functions of licensing authorities;

(*b*) the form and particulars of application for the grant or renewal of a licence and where the application is for the renewal of a licence, the time within which it shall be made;

(*c*) the form in which and the conditions subject to which any licence may be granted or refused, renewed, varied, suspended or revoked;

(*d*) where no period has been specified in this Act, the period for which any licence shall continue to be in force;

(*e*) the fees payable in respect of any application for the grant or renewal of a licence and in respect of any licence granted or renewed and the manner of paying the same;

(*f*) the manner in which the maker's name, the manufacturer's number or other identification mark of a firearm shall be stamped or otherwise shown thereon;

(*g*) the procedure for the test or proof of any firearms;

(*h*) the firearms that may be used in the course of training, the age-limits of persons who may use them and the conditions for their use by such persons;

(*i*) the authority to whom appeals may be preferred under section 18, the procedure to be followed by such authority and the period within which appeals shall be preferred, the fees to be paid in respect of such appeals and the refund of such fees;

(*j*) the maintenance of records or accounts of anything done under a licence other than a licence under section 3 or section 4, the form of, and the entries to be made in, such records or accounts and the exhibition of such records or accounts to any police officer or to any officer of Government empowered in this behalf;

(*k*) the entry and inspection by any police officer or by any officer of Government empowered in this behalf of any premises or other place in which arms or ammunition are or is manufactured or in which arms or ammunition are or is kept by a

manufacturer of or dealer in such arms or ammunition and the exhibition of the same to such officer;

(*l*) the conditions subject to which arms or ammunition may be deposited with a licensed dealer or in a unit armoury as required by sub-section (*1*) of section 21 and the period on the expiry of which the things so deposited may be forfeited;

(*m*) any other matter which is to be, or may be prescribed.

(*3*) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Act not to apply in certain cases.

45. Nothing in this Act shall apply to—

(*a*) arms or ammunition on board any sea-going vessel or any aircraft and forming part of the ordinary armament or equipment of such vessel or aircraft;

(*b*) the acquisition, possession or carrying, the manufacture, repair, conversion, test or proof, the sale or transfer or the import export or transport of arms or ammunition—

(*i*) by or under orders of the Central Government, or

(*ii*) by a public servant in the course of his duty as such public servant, or

(*iii*) by a member of the National Cadet Corps raised and maintained under the National Cadet Corps Act, 1948, or by any officer or enrolled person of the Territorial Army raised and maintained under the Territorial Army Act, 1948, or by any member of any other forces raised and maintained or that may hereafter be raised and maintained under any Central Act, or by any member of such other forces as the Central Government may, by notification in the Official Gazette, specify, in the course of his duty as such member, officer or enrolled person;

31 of 1948.

56 of 1948.

(c) any weapon of an obsolete pattern or of antiquarian value or in disrepair which is not capable of being used as a firearm either with or without repair;

(*d*) the acquisition, possession or carrying by a person of minor parts of arms or ammunition which are not intended to be used along with complementary parts acquired or possessed by that or any other person.

11 of 1878. 5 **46.** (*1*) The Indian Arms Act, 1878, is hereby repealed.

Repeal of Act 11 of 1878.

11 of 1878. (2) Notwithstanding the repeal of the Indian Arms Act, 1878, and without prejudice to the provisions of sections 6 and 24 of the General

10 of 1897. Clauses Act, 1897, every licence granted or renewed under the first-mentioned Act and in force immediately before the commencement

10 of this Act shall, unless sooner revoked, continue in force after such commencement for the unexpired portion of the period for which it has been granted or renewed.

GMGIPND.—L.S.I—624(B, I S —11-8-59—2375.

APPENDIX I

(*Vide* para 2 of the Report)

Motion in the Lok Sabha for reference of the Bill to Joint Committee

"That the Bill to consolidate and amend the law relating to arms and ammunition be referred to a Joint Committee of the Houses consisting of 45 members; 30 from this House, namely:—

1. Shri Upendranath Barman
2. Shri Missula Suryanarayanamurti
3. Rani Manjula Devi
4. Shri Bibhuti Mishra
5. Shri Mohammad Tahir
6. Dr. Gopalrao Khedkar
7. Shri Chhaganlal M. Kedaria
8. Shri M. K. M. Abdul Salam
9. Shri R. S. Arumugam
10. Shri Vidya Charan Shukla
11. Shri K. R. Achar
12. Shri Mathew Maniyangadan
13. Shri Bhakt Darshan
14. Shri Jagan Nath Prasad Pahadia
15. Shri Raghubir Sahai
16. Shri Ansar Harvani
17. Shri Devanapalli Rajiah
18. Shri Bangshi Thakur
19. Shri Radha Charan Sharma
20. Shri Satis Chandra Samanta
21. Shri Ranbir Singh Chaudhuri
22. Shri Hirendra Nath Mukerjee
23. Shri K. K. Warior
24. Shri Mohan Swarup
25. Shri Shambhu Charan Godsora
26. Thakor Shri Fatesinhji Ghodasar
27. Shri Uma Charan Patnaik

28. Shri Atal Bihari Vajpayee

29. Shri Shankarrao Khanderao Dige, and

30. Shri B. N. Datar

and 15 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee, the quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the first day of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends the Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of members to be appointed by Rajya Sabha to the Joint Committee."

APPENDIX II

(*Vide* para 3 of the Report)

Motion in the Rajya Sabha

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to consolidate and amend the law relating to arms and ammunition, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

1. Shri Ahmad Said Khan
2. Shri Har Prasad Saksena
3. Shrimati Maya Devi Chettry
4. Shri B. Parameswaran
5. Shri Narotham Reddy
6. Shri Onkar Nath
7. Thakur Bhanu Pratap Singh
8. Shri Govind Chandra Misra
9. Sardar Raghbir Singh Panjhazari
10. Shri P. N. Rajabhoj
11. Shri N. C. Sekhar
12. Shri Faridul Haq Ansari
13. Shri Anand Chand
14. Shri B. D. Khobaragade
15. Shrimati Violet Alva.

APPENDIX III

(*Vide* para 7 of the Report)

Statement showing particulars of memoranda/representations etc. received by the Joint Committee and the action taken thereon.

Sl. No.	Nature of Document	From whom received	Action taken
1	Memorandum . .	The National Rifle Association, India, New Delhi	Circulated to Members and evidence of the Association taken on the 15th July, 1959.
2	Do.	Shri Bolakaranda M. Cariappa, New Delhi.	Circulated to Members and evidence of the Individual taken on the 18th July, 1959.
3	Do.	Coorg District Congress Committee, Ponnampe, Coorg.	Circulated to Members.
4	Suggestion . . .	Government of Andhra Pradesh	Do.
5	Memorandum . .	Shri P. K. Choudhary, Calcutta.	Placed in the Parliament Library and Members informed.
6	Representation . .	Shri R. Jamshedji, Bombay	Do.
7	Do.	Shri J. K. Prasad, Bombay	Do.
8	Do.	Shri A. S. Barodawalla, Bombay	Do.
9	Memorandum . .	Socialist Unity Centre of India, Calcutta.	Do.
10	Representation . .	'C' Ward Rifle Club (Regd., Bombay.	Do.
11	Do.	Dr. S. S. Agarwala, Kailash Tehri, Allahabad.	Do.
12	Do.	Shrimati Dhanbai R. Jamshedji, Bombay.	Do.
13	Do.	Shri F. Galiffe, Pariyapatna Taluk, Mysore.	Do.
14	Suggestion . . .	Shri Salim Ali, Bombay.	Do.
15	Do.	Shri Humayun Abdulali, Bombay	Do.

APPENDIX IV

(*Vide* para 9 of the Report)

List of witnesses who gave evidence before the Joint Committee.

Sl. No.	Names of the Witnesses	Date on which evidence was taken
1.	Shri M. M. Basu, Secretary, Home Department, Government of West Bengal	14-7-59
2.	Shri M. G. Kaul, Secretary, Home Department, Government of Uttar Pradesh	15-7-59
3.	The National Rifle Association, India, New Delhi.	15-7-59
4.	Shri A. N. Kashyap, Secretary, Home Department, Government of Punjab.	18-7-59
5.	Shri Bolakaranda M. Cariappa, New Delhi.	18-7-59

APPENDIX V

MINUTES OF THE JOINT COMMITTEE ON THE ARMS BILL, 1958

I

First Sitting

The Committee met from 10-30 hours to 11-20 hours on Friday, the 8th May, 1959.

PRESENT

Shri Upendranath Barman—*Chairman.*

MEMBERS

Lok Sabha

1. Shri Missula Suryanarayanamurti
2. Rani Manjula Devi
3. Shri Bibhuti Mishra
4. Shri Mohammed Tahir
5. Dr. Gopalrao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri M. K. M. Abdul Salam
8. Shri Vidya Charan Shukla
9. Shri K. R. Achar
10. Shri Mathew Maniyangadan
11. Shri Bhakt Darshan
12. Shri Jagan Nath Prasad Pahadia
13. Shri Raghubir Sahai
14. Shri Devanapalli Rajiah
15. Shri Bangshi Thakur
16. Shri Radha Charan Sharma
17. Shri Satis Chandra Samanta
18. Shri Ranbir Singh Chaudhuri
19. Shri Hirendra Nath Mukerjee
20. Shri Mohan Swarup
21. Shri Uma Charan Patnaik
22. Shri Atal Bihari Vajpayee

23. Shri Shankarrao Khanderao Dige
24. Shri B. N. Datar.

Rajya Sabha

25. Shri Har Prasad Saksena
26. Shrimati Maya Devi Chettry
27. Shri Onkar Nath
28. Thakur Bhanu Pratap Singh
29. Shri Govind Chandra Mishra
30. Sardar Raghubir Singh Panjhazari
31. Shri N. C. Sekhar
32. Shri Faridul Haq Ansari
33. Shri B. D. Khobaragade.

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee held a discussion about their future programme.

3. The Committee decided to hold their further sittings from the 13th July, 1959 onwards.

4. The Committee considered whether any evidence should be taken by them and whether it was necessary to issue a press communique advising associations desirous of presenting their suggestions or views before the Committee in respect of the Bill to submit written memoranda thereon.

5. It was decided that press communique might be issued advising Associations, public bodies etc. who are desirous of presenting their suggestions of views before the Committee in respect of the Bill to send written memoranda thereon to the Lok Sabha Secretariat by the 10th June, 1959.

6. The Committee authorised the Chairman to decide after examining the memoranda as to which of the Associations, public bodies etc. ought to be called to give oral evidence before the Committee.

7. The Committee decided that one Officer from each of the eastern and western borders of the country and one officer from the States of Uttar Pradesh or Madhya Pradesh or Rajasthan may be examined by them in regard to issue of arms licences to the public subject to permission being given by the Speaker.

8. The Committee desired that copies of the following documents might be circulated to the members of the Committee:—

(i) The Indian Arms Act, 1878 as amended upto date.

(ii) The Indian Arms Rules, 1951.

(iii) Note on Arms Law in the U.K., U.S.A. and any other foreign country with relevant extracts thereof.

(iv) Copies of speeches of members of the Central Legislature on various Arms Bills discussed in the House.

(v) Extracts of opinions received on the Indian Arms (Amendment) Bill by Shri Uma Charan Patnaik, M.P.

9. The Committee desired that for the benefit of the members of the Committee, different types of arms may be exhibited on one of their future sittings in one of the rooms in the Parliament House.

10. The Committee then adjourned to meet again at 10.00 hours on Monday, the 13th July, 1959.

II

Second Sitting

The Committee met from 10-00 hours to 10-45 hours on Monday, the 13th July, 1959.

PRESENT

Shri Upendranath Barman—*Chairman.*

MEMBERS

Lok Sabha

2. Shri Bibhuti Mishra
3. Shri Mohammad Tahir
4. Dr. Gopalarao Khedkar
5. Shri Chhaganlal M. Kedaria
6. Shri M. K. M. Abdul Salam
7. Shri R. S. Arumugam
8. Shri K. R. Achar
9. Shri Bhakt Darshan
10. Shri Jagan Nath Prasad Pahadia
11. Shri Raghubir Sahai
12. Shri Ansar Harvani
13. Shri Devanapalli Rajiah
14. Shri Bangshi Thakur
15. Shri Radha Charan Sharma
16. Shri Satis Chandra Samanta
17. Shri Ranbir Singh Chaudhuri
18. Shri Hirendra Nath Mukerjee
19. Shri Mohan Swarup
20. Shri Shambhu Charan Godsora
21. Thakore Shri, Fatesinhji Ghodasar
22. Shri Uma Charan Patnaik
23. Shri Atal Bihari Vajpayee
24. Shri Shankarrao Khanderao Dige
25. Shri B. N. Datar.

26. Shri Ahmad Said Khan
27. Shri Har Prasad Saksena
28. Shrimati Maya Devi Chettry
29. Shri Narotham Reddy
30. Shri Onkar Nath
31. Thakur Bhanu Pratap Singh
32. Shri Govind Chandra Mishra
33. Sardar Raghubir Singh Panjhazari
34. Shri P. N. Rajabhoj
35. Shri N. C. Sekhar
36. Shri Anand Chand
37. Shri B. D. Khobaragade
38. Shrimati Violet Alva.

DRAFTSMAN

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri P. K. Patnaik—*Under Secretary.*

2. The Committee had a preliminary discussion on the provisions of the Bill and the nature of questions that might be asked to the witnesses appearing before the Committee on the 14th, 15th and 18th July, 1959.

3. The Committee then adjourned in order to enable the members to see the exhibition of different types of arms arranged in Parliament House for the benefit of the members of the Committee, as decided at their first sitting held on the 8th May, 1959.

4. The next meeting of the Committee would be held at 10-30 hours on Tuesday, the 14th July, 1959.

III

Third Sitting

The Committee met from 10·30 hours to 13·00 hours on Tuesday, the 14th July, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri Missula Suryanarayanamurti
3. Shri Bibhuti Mishra
4. Shri Mohammad Tahir
5. Dr. Gopalrao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri M. K. M. Abdul Salam
8. Shri R. S. Arumugam
9. Shri K. R. Achar
10. Shri Bhakt Darshan
11. Shri Jagan Nath Prasad Pahadia
12. Shri Raghubir Sahai
13. Shri Ansar Harvani
14. Shri Devanapalli Rajiah
15. Shri Bangshi Thakur
16. Shri Radha Charan Sharma
17. Shri Satish Chandra Samanta
18. Shri Ranbir Singh Chaudhuri
19. Shri Hirendra Nath Mukerjee
20. Shri Mohan Swarup
21. Shri Shambhu Charan Godsora
22. Thakor Shri Fatesinhji Ghodasar
23. Shri Uma Charan Patnaik
24. Shri Atal Bihari Vajpayee

25. Shri Shankarrao Khanderao Dige
26. Shri B. N. Datar.

Rajya Sabha

27. Shri Ahmad Said Khan
28. Shri Har Prasad Saksena
29. Shrimati Maya Devi Chettry
30. Shri B. Parameswaran
31. Shri Narotham Reddy
32. Shri Onkar Nath
33. Thakur Bhanu Pratap Singh
34. Shri Govind Chandra Mishra
35. Sardar Raghubir Singh Panjhazari
36. Shri P. N. Rajabhoj
37. Shri N. C. Sekhar
38. Shri B. D. Khobaragade
39. Shrimati Violet Alva.

DRAFTSMAN

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri P. K. Patnaik—*Under Secretary.*

WITNESS

Shri M. M. Basu—*Secretary, Home Department, Government of West Bengal.*

2. The Committee heard the evidence tendered by the witness named above.

3. A verbatim record of the evidence tendered was taken down.

4. The Committee then adjourned to meet again at 09·30 hours on Wednesday, the 15th July, 1959.

IV

Fourth Sitting

The Committee met from 9·30 hours to 13·00 hours on Wednesday, the 15th July, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri Missula Suryanarayanamurti
3. Shri Bibhuti Mishra
4. Shri Mohammad Tahir
5. Dr. Gopalrao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri M. K. M. Abdul Salam
8. Shri R. S. Arumugam
9. Shri K. R. Achar
10. Shri Bhakt Darshan
11. Shri Jagan Nath Prasad Pahadia
12. Shri Raghubir Sahai
13. Shri Ansar Harvani
14. Shri Devanapalli Rajiah
15. Shri Bangshi Thakur
16. Shri Radha Charan Sharma
17. Shri Satish Chandra Samanta
18. Shri Ranbir Singh Chaudhuri
19. Shri Hirendra Nath Mukerjee
20. Shri Mohan Swarup
21. Shri Shambhu Charan Godsora
22. Thakor Shri Fatesinhji Ghodasar
23. Shri Uma Charan Patnaik
24. Shri Atal Bihari Vajpayee

25. Shri Shankarrao Khanderao Dige
26. Shri B. N. Datar.

Rajya Sabha

27. Shri Ahmad Said Khan
28. Shri Har Prasad Saksena
29. Shrimati Maya Devi Chettry
30. Shri B. Parameswaran
31. Shri Narotham Reddy
32. Shri Onkar Nath
33. Thakur Bhanu Pratap Singh
34. Shri Govind Chandra Mishra
35. Sardar Raghubir Singh Panjhazari
36. Shri P. N. Rajabhoj
37. Shri N. C. Sekhar
38. Shri B. D. Khobaragade
39. Shrimati Violet Alva.

DRAFTSMAN

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri P. K. Patnaik—*Under Secretary.*

WITNESSES

I. Shri M. G. Kaul, *Secretary, Home Department, Government of Uttar Pradesh.*

II. *The National Rifle Association, India, New Delhi.*

1. Shri K. G. Prabhu
2. Sardar Daya Singh

2. On the request of Shri K. R. Achar, member of the Joint Committee, the Committee agreed to hear the evidence of one Shri Kariappa of Coorg on the 18th July, 1959 regarding certain facilities enjoyed by the Coorg community and the holder of Jumma tenure in Coorg in regard to the possession of arms etc.

3. The Committee then heard the evidence tendered by Shri M. G. Kaul, Secretary, Home Department, Government of Uttar Pradesh. A verbatim record of the evidence tendered was taken down. The witness, however, requested the Committee that the whole of the evidence tendered by him might be treated as confidential so far as persons other than Members of Parliament were concerned. The Committee agreed.

4. The Committee thereafter heard the evidence tendered by the representatives of the National Rifle Association, India, New Delhi. A verbatim record of the evidence tendered was taken down.

5. The Committee then adjourned to meet again at 09·30 hours on Thursday, the 16th July, 1959.

V

Fifth Sitting

The Committee met from 09·30 hours to 12·35 hours on Thursday, the 16th July, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri Missula Suryanarayanamurti
3. Shri Bibhuti Mishra
4. Shri Mohammad Tahir
5. Dr. Gopalarao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri M. K. M. Abdul Salam
8. Shri R. S. Arumugam
9. Shri K. R. Achar
10. Shri Bhakt Darshan
11. Shri Jagan Nath Prasad Pahadia
12. Shri Raghubir Sahai
13. Shri Ansar Harvani
14. Shri Devanpalli Rajiah
15. Shri Bangshi Thakur
16. Shri Radha Charan Sharma
17. Shri Satish Chandra Samanta
18. Shri Ranbir Singh Chaudhuri
19. Shri Hirendra Nath Mukerjée
20. Shri Mohan Swarup
21. Shri Shambhu Charan Godsora
22. Thakor Shri Fatesinhji Ghodasar
23. Shri Uma Charan Patnaik
24. Shri Atal Bihari Vajpayee

25. Shri Shankarrao Khanderao Dige
26. Shri B. N. Datar

Rajya Sabha

27. Shri Ahmad Said Khan
28. Shri Har Prasad Saksena
29. Shrimati Maya Devi Chettry
30. Shri Narotham Reddy
31. Thakur Bhanu Pratap Singh
32. Shri Govind Chandra Mishra
33. Sardar Raghubir Singh Panjhazari
34. Shri N. C. Sekhar
35. Shri B. D. Khobaragade
36. Shrimati Violet Alva

DRAFTSMAN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee discussed the question whether or not the Bill should be confined to fire arms only or if it applies to arms in general whether any amendment in clause 4 is necessary.

Discussion was concluded but decision was held over.

3. The Committee, thereafter, discussed their programme of sittings. It was decided to conclude clause by clause consideration of the Bill by the 22nd July, 1959 and adjourn thereafter.

4. The Committee then adjourned to meet again at 09·30 hours on Saturday, the 18th July, 1959.

VI

Sixth sitting

The Committee met from 09.36 hours to 12.42 hours on Saturday, the 18th July, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabhā

2. Shri Missula Suryanarayanamurti
3. Shri Bibhuti Mishra
4. Shri Mohammad Tahir
5. Dr. Gopalrao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri M. K. M. Abdul Salam
8. Shri R. S. Arumugam
9. Shri K. R. Achar
10. Shri Bhakt Darshan
11. Shri Jagan Nath Prasad Pahadia
12. Shri Raghubir Sahai
13. Shri Ansar Harvani
14. Shri Devanapalli Rajiah
15. Shri Bangshi Thakur
16. Shri Satish Chandra Samanta
17. Shri Hirendra Nath Mukerjee
18. Shri Mohan Swarup
19. Shri Shambhu Charan Godsora
20. Thakor Shri Fatesinhji Ghodasar
21. Shri Uma Charan Patnaik
22. Shri Atal Bihari Vajpayee
23. Shri Shankarrao Khanderao Dige
24. Shri B. N. Datar.

25. Shri Ahmad Said Khan
26. Shri Har Prasad Saksena
27. Shri Narotham Reddy
28. Shri Onkar Nath
29. Thakur Bhanu Pratap Singh
30. Shri Govind Chandra Mishra
31. Shri N. C. Sekhar
32. Shrimati Violet Alva.

DRAFTSMEN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

WITNESSES

I. Shri A. N. Kashyap—*Secretary, Home Department, Government of Punjab.*

II. Shri Bolakaranda M. Cariappa, New Delhi.

2. The Committee heard the evidence tendered by the witnesses named above.

3. A verbatim record of the evidence tendered was taken down.

4. The Committee then adjourned to meet again at 09·30 hours on Monday, the 20th July, 1959.

VII

Seventh Sitting

The Committee met from 09·36 hours to 12·58 hours on Monday, the 20th July, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri Missula Suryanarayanamurti
3. Shri Bibhuti Mishra
4. Shri Mohammad Tahir
5. Dr. Gopalrao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri M. K. M. Abdul Salam
8. Shri R. S. Arumugam
9. Shri K. R. Achar
10. Shri Bhakt Darshan
11. Shri Jagan Nath Prasad Pahadia
12. Shri Raghubir Sahai
13. Shri Ansar Harvani
14. Shri Devanapalli Rajiah
15. Shri Bangshi Thakur
16. Shri Satish Chandra Samanta
17. Shri Ranbir Singh Chaudhuri
18. Shri Hirendra Nath Mukerjee
19. Shri Mohan Swarup
20. Shri Shambhu Charan Godsora
21. Thakor Shri Fatesinhji Ghodasar
22. Shri Uma Charan Patnaik
23. Shri Shankarrao Khanderao Dige
24. Shrimati Violet Alva.

25. Shri Har Prasad Saksena
26. Shrimati Maya Devi Chettry
27. Shri Narotham Reddy
28. Shri Onkar Nath
29. Thakur Bhanu Pratap Singh
30. Shri Govind Chandra Mishra
31. Sardar Raghubir Singh Panjhazari
32. Shri N. C. Sekhar
33. Shri Anand Chand
34. Shrimati Violet Alva.

DRAFTSMEN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee took up clause by clause consideration of the Bill.

3. *Clause* 2.—(1) The following amendment was accepted:—

In Page 2, line 32,

for "firearms" *substitute* "artillery".

(2) The Committee also accepted the following amendment subject to drafting changes being made by the draftsmen:—

In page 3, line 7,

after "other things" *insert* "and includes bombs, grenades, articles designed for torpedo service, sub-marine mining and anti-tank warfare and such other weapons as may be declared by the Central Government, by notification in the Official Gazette, to be prohibited arms;"

The draftsman was also directed to examine whether this amendment should not form a separate part under the heading "prohibited ammunition".

Subject to above, the clause as amended was adopted.

4. *Clause* 3.—(1) The following amendment was accepted:—

In page 3, line 26,

omit "for purposes of sport".

(2) The Committee felt that the Government might consider whether a provision could be made in the rules for allowing a licensee to use temporarily, for purposes of sport another licensee's firearms of the type for which he holds a license.

The clause as amended was adopted.

5. *Clause* 4.—(1) The following amendment was accepted:—

In page 3, line 33,

for "of any description" *substitute* "of such description as may be specified in that notification."

(2) The Committee desired that the question of providing in the rules for transport of firearms packed in cases through an area specified by the Central Government under this clause might be examined, by the Government.

The clause as amended was adopted.

6. The Committee then adjourned to meet again at 09·30 hours on Tuesday, the 21st July, 1959.

VIII

Eighth Sitting

The Committee met from 09·35 hours to 13·00 hours on Tuesday, the 21st July, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri Missula Suryanarayanamurti
3. Shri Bibhuti Mishra
4. Shri Mohammad Tahir
5. Dr. Gopalrao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri M. K. M. Abdul Salam
8. Shri R. S. Arumugam
9. Shri K. R. Achar
10. Shri Bhakt Darshan
11. Shri Jagan Nath Prasad Pahadia
12. Shri Raghubir Sahai
13. Shri Ansar Harvani
14. Shri Devanpalli Rajiah
15. Shri Bangshi Thakur
16. Shri Radha Charan Sharma
17. Shri Satish Chandra Samanta
18. Shri Hirendra Nath Mukerjee
19. Shri Mohan Swarup
20. Shri Shambhu Charan Godsora
21. Thakor Shri Fatesinhji Ghodasar
22. Shri Uma Charan Patnaik
23. Shri Atal Bihari Vajpayee

24. Shri Shankarrao Khanderao Dige
25. Shri B. N. Datar (*in the Chair from* 11·53 *to* 11:57 *hours*).

Rajya Sabha

26. Shri Har Prasad Saksena
27. Shrimati Maya Devi Chettry
28. Shri Narotham Reddy
29. Thakur Bhanu Pratap Singh
30. Shri Govind Chandra Mishra
31. Shri N. C. Sekhar
32. Shri Anand Chand
33. Shrimati Violet Alva

DRAFTSMEN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee resumed clause by clause consideration of the Bill.

3. *Clause* 5.—The following amendments were accepted:—

(a) In page 3,

(i) line 37,

after "transfer" *insert* "convert".

(ii) line 39,

after "transfer" *insert* "conversion".

(b) In page 4, line 1

for "arms or ammunitions" *substitute* "firearms or ammunitions or prescribed arms."

The Draftsman was directed to carry out consequential amendments where necessary.

(2) The Committee felt that the proviso should be confined to sale or transfer of arms or ammunitions in respect of which a licence is required under clause 3 or 4 of the Bill.

The Draftsman was directed to submit a revised draft of the clause for consideration of the Committee.

4. *Clauses* 6 & 7.—These clauses were adopted without any amendments.

5. *Clause* 8.—The following amendment was accepted:—

In page 5, line 9,

for "six month" *substitute* "one year".

The clause, as amended, was adopted.

6. *Clause* 9.—The following amendments were accepted:—

(i) In page 5, line 13,

for "eighteen" *substitute* "sixteen".

(ii) In page 5,

for lines 32—36, *substitute*—

"(2) Notwithstanding anything in sub-clause (i) of clause (a) of sub-section (1), a person who has attained the prescribed age-limit may use under prescribed conditions such firearms as may be prescribed in the course of his training in the use of such firearms :

Provided that different age limits may be prescribed in relation to different firearms."

The clause, as amended, was adopted.

7. *Clause* 10.—The following amendment was accepted:—

In page 6,

for lines 12—17, *substitute*—

"(b) a person being a *bona fide* tourist belonging to any country as the Central Government may, by notification in the Official Gazette, specify, who is not prohibited by the laws of that country from having in his possession any arms or ammunition, may, without a licence under this section but in accordance with such conditions as may be prescribed, bring with him into India arms and ammunition in reasonable quantities for use by him for purposes only of sport and for no other purpose.

Explanation.—For purposes of clause (b) of this proviso, the word "tourist" means a person who not being a citizen of India visits India for a period not exceeding six months with no other object than recreation, sightseeing, or participation in a representative capacity in meetings convened by the Central Government or in international conferences, association or other bodies."

The clause, as amended, was adopted.

8. *Clauses* 11 *and* 12.—These clauses were adopted without any amendment.

9. *Clause* 13.—Sub-clause (1) and (2) were adopted without any amendment.

Sub-clause (3) (a) (i) was held over.

Sub-clause (3) (a) (ii) and (b) were adopted without any amendment.

10. The Committee then adjourned to meet again at 09·30 hours on Wednesday, the 22nd July, 1959.

IX

Ninth Sitting

The Committee met from 09·30 hours to 13·17 hours and again from 14·30 hours to 15·00 hours on Wednesday, the 22nd July, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Shri Missula Suryanarayanamurti.
3. Shri Bibhuti Mishra.
4. Shri Mohammad Tahir
5. Dr. Gopalrao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri M. K. M. Abdul Salam
8. Shri R. S. Arumugam
9. Shri K. R. Achar
10. Shri Bhakt Darshan
11. Shri Jagan Nath Prasad Pahadia
12. Shri Raghubir Sahai
13. Shri Ansar Harvani
14. Shri Devanapalli Rajiah
15. Shri Bangshi Thakur
16. Shri Radha Charan Sharma
17. Shri Satish Chandra Samanta
18. Shri Ranbir Singh Chaudhuri
19. Shri Hirendra Nath Mukerjee
20. Shri Mohan Swarup
21. Shri Shambhu Charan Godsora
22. Thakor Shri Fatesinhji Ghodasar
23. Shri Uma Charan Patnaik
24. Shri Atal Bihari Vajpayee

25. Shri Shankarrao Khanderao Dige
26. Shri B. N. Datar.

Rajya Sabha

27. Shri Har Prasad Saksena
28. Shrimati Maya Devi Chettry
29. Shri Narotham Reddy
30. Shri Onkar Nath
31. Thakur Bhanu Pratap Singh
32. Shri Govind Chandra Mishra
33. Sardar Raghubir Singh Panjhazari
34. Shri P. N. Rajabhoj
35. Shri N. C. Sekhar
36. Shri B. D. Khobaragade.

DRAFTSMAN

Shri S. P. Verma, *Additional Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. Committee resumed clause by clause consideration of the Bill.

3. *Clause* 14.—The following amendment was accepted:—

In page 8, line 5,

after "peace" *insert* "or for public safety".

The Committee desired that the Government might consider providing in the rules for a licensing authority to hear an applicant for a licence when the licence is to be refused and the case is a border line one.

The clause, as amended, was adopted.

4. *Clauses* 15 *and* 16.—These clauses were adopted without any amendment.

5. *Clause* 17.—The following amendment was accepted:—

In page 9, line 17,

after "peace" *insert* "or for public safety".

The clause, as amended, was adopted.

6. *Clause* 18.—The clause was adopted without any amendment.

7. *Clause* 19.—The Committee felt that it ought to be provided in this clause that in case the police Officer was satisfied with the explanation given by the person who was carrying arms or ammunitions he need not seize the arms or ammunitions.

Subject to above the clause was adopted.

8. *Clause* 20.—The clause was adopted without any amendment.

9. *Clause* 21.—The following amendment was accepted:—

In page 12, line 32,

for "fourteen" substitute *"thirty"*.

The clause, as amended, was adopted.

10. *Clauses* 22 *to* 34.—These clauses were adopted without any amendment.

11. The Committee adjourned at 13·17 hours and reassembled at 14·30 hours.

12. *Clause* 35.—The clause was adopted without any amendment.

The Chairman, however, announced that consideration of this clause could be reopened in case any constructive proposal for its amendment was received from Members.

13. *Clauses* 36 *to* 43.—These clauses were adopted without any amendment.

14. *Clause* 44.—The clause was adopted without any amendment.

The Committee desired that the Government might issue instructions to the State Governments to take a decision on applications for renewal of licences within a specified period.

15. *Clause* 45.—The following amendment was accepted:—

In page 21, line 29,

after "under any Central Act" *insert*,

"or by any member of such other forces as the Central Government may, by notification in the Official Gazette, specify".

The clause, as amended, was adopted.

16. *Clause* 46.—The clause was adopted without any amendment.

17. *Clause* 5.—(*Vide* para 3 of the Minutes of the Eighth Sitting held on the 21st July, 1959).

The following further amendments were accepted:—

In page 4,

(a) in line 1, *for* the words "any arms or ammunition", *substitute* the words "any firearm or any other arms of such class or description as may be prescribed or any ammunition";

(b) in line 5, *for* the words "any arms or ammunition", *substitute* the words "any firearms or ammunition in respect of which a licence is required under section 3 or any arms in respect of which a licence is required under section 4";

(c) in line 9, 10 and 14, *for* the words "arms or ammunition", *substitute* the words "firearm, ammunition or other arms".

The clause, as amended, was adopted.

18. *Clause* 13.—(*Vide* para 9 of the Minutes of the Eighth Sitting held on the 21st July, 1959).

The following amendments were accepted:—

In page 7,

(a) in line 19, *omit* the word "or" at the end;

(b) *after* line 19, *insert* the following proviso, namely:—

"Provided that the licensing authority may grant a licence in respect of any other smooth bore gun as aforesaid for *bonafide* crop protection where having regard to the circumstances of any case it is satisfied that a muzzle loading gun will not be sufficient for such protection, or".

The clause, as amended, was adopted.

19. *Clause* 1.—The following amendment was accepted:—

In page 1, line 4,

for "1958" *substitute* "1959".

The clause, as amended, was adopted.

20. *Enacting formula.*—The following amendment was accepted:—

In page 1, line 1,

for "ninth" *substitute* "tenth".

The enacting formula, as amended, was adopted.

21. The Committee decided that the evidence tendered before them may be laid on the Table of the House.

22. The Committee further decided that after the evidence is laid on the Table, the memoranda submitted by the Associations/individual that tendered evidence before the Committee might be placed in the Parliament Library for reference of the Members of Parliament.

23. The Committee decided to ask for extension of time for the presentation of their Report upto the 13th August, 1959 and in the absence of the Chairman Shri Satish Chandra Samanta and alternatively Shri Raghubir Sahai were authorised to move the necessary motion in the House.

24. The Draftsman was authorised to carry out minor changes of drafting nature in the Bill, if necessary.

25. The Committee then adjourned to meet again at 15·00 hours on Tuesday, the 4th August, 1959.

X

Tenth Sitting

The Committee met from 15.02 hours to 16.00 hours on Tuesday, the 4th August, 1959.

PRESENT

Shri Upendranath Barman—*Chairman*

MEMBERS

Lok Sabha

2. Rani Manjula Devi
3. Shri Bibhuti Mishra
4. Shri Mohammad Tahir
5. Dr. Gopalrao Khedkar
6. Shri Chhaganlal M. Kedaria
7. Shri R. S. Arumugam
8. Shri Vidya Charan Shukla
9. Shri K. R. Achar
10. Shri Mathew Maniyangadan
11. Shri Bhakt Darshan
12. Shri Jagan Nath Prasad Pahadia
13. Shri Raghubir Sahai
14. Shri Ansar Harvani
15. Shri Devanapalli Rajiah
16. Shri Bangshi Thakur
17. Shri Radha Charan Sharma
18. Shri Satish Chandra Samanta
19. Shri K. K. Warior
20. Shri Mohan Swarup
21. Shri Shambhu Charan Godsora
22. Thakor Shri Fatesinhji Ghodasar
23. Shri Uma Charan Patnaik
24. Shri Atal Bihari Vajpayee

25. Shri Shankarrao Khanderao Dige
26. Shri B. N. Datar.

Rajya Sabha

27. Shri Ahmad Said Khan
28. Shri Har Prasad Saksena
29. Shri Narotham Reddy
30. Shri Onkar Nath
31. Thakur Bhanu Pratap Singh
32. Shri Govind Chandra Mishra
33. Sardar Raghubir Singh Panjhazari
34. Shri N. C. Sekhar
35. Shri B. D. Khobaragade
36. Shrimati Violet Alva.

DRAFTSMEN

Shri S. P. Sen Verma, *Additional Draftsman, Ministry of Law.*

Shri K. K. Sundaram, *Deputy Draftsman, Ministry of Law.*

REPRESENTATIVES OF MINISTRIES AND OTHER OFFICERS

Shri C. P. S. Menon, *Deputy Secretary, Ministry of Home Affairs.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee considered the Bill as amended and adopted the same with the following amendments:—

(i) In clause 9(1) (b) (ii),—

before "repair" *insert* "conversion".

(ii) In clause 35,—

(a) *after* "premises" *insert* "vehicle".

(b) *after* "such persons" *insert*—

"in respect of whom there is reason to believe that he was aware of the existence of the arms or ammunition in the premises, vehicle or other place".

(iii) *for* clause 44(3), *substitute*,—

"(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session

or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

3. The Committee then considered the draft Report and adopted the same with necessary consequential changes arising out of the acceptance of above amendments.

4. The Committee decided that the Report might be presented to the Lok Sabha on the 10th August, 1959 and laid on the Table of the Rajya Sabha on the same day.

5. The Committee authorised the Chairman and in his absence Shri Raghubir Sahai, to present the Report on their behalf and to lay the evidence on the Table of the House after the presentation of the Report.

6. The Committee authorised Shrimati Violet Alva, and in her absence Thakur Bhanu Pratap Singh to lay the Report of the Committee and the evidence on the Table of the Rajya Sabha.

7. The Committee decided that Minutes of Dissent, if any, might be sent to the Lok Sabha Secretariat so as to reach them by 17.00 hours on Saturday, the 8th August, 1959.

8. The Committee then adjourned.

C.B. (II) No. 94

LOK SABHA

THE DOWRY PROHIBITION BILL, 1959

(Report of the Joint Committee)

PRESENTED ON THE 19TH NOVEMBER, 1959

LOK SABHA SECRETARIAT
NEW DELHI
November, 1959
50 *nP*:

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1153 (Aii) L.S.—1.

THE DOWRY PROHIBITION BILL, 1959

Composition of the Joint Committee

Shrimati Renu Chakravartty—*Chairman.*

MEMBERS

Lok Sabha

2. Shri J. M. Mohamed Imam
3. Dr. K. Atchamamba
4. Shri Nibaran Chandra Laskar
5. Shri Onkar Lal
6. Shrimati Jayaben Vajubhai Shah
7. Shri Balkrishna Wasnik
8. Shri Ram Krishan Gupta
9. Shri Mahendra Nath Singh
10. Shrimati Satyabhama Devi
11. Shri Sinhasan Singh
12. Shrimati Uma Nehru
13. Shri J. B. S. Bist
14. Shri Hifzur Rahman
15. Shrimati Renuka Ray
16. Shri Tekur Subrahmanyam
17. Dr. M. V. Gangadhara Siva
18. Shri V. Eacharan
19. Shrimati Sahodra Bai Rai
20. Pandit Babu Lal Tiwari
21. Shri S. R. Arumugham
22. Shri Radha Charan Sharma
23. Shri R. M. Hajarnavis
24. Shri P. T. Punnoose
25. Shri Subiman Ghose
26. Shri Uttamrao L. Patil
27. Shri Braj Raj Singh
28. Shri Ignace Beck

29. Shri Khushwaqt Rai
30. Shri Asoke K. Sen.

Rajya Sabha

31. Pandit S. S. N. Tankha
32. Shrimati T. Nallamuthu Ramamurti
33. Shri Akhtar Husain
34. Giani Zail Singh
35. Shri Sheel Bhadra Yajee
36. Shrimati Yashoda Reddy
37. Shri Bhagirathi Mahapatra
38. Shri Jethalal Harikrishna Joshi
39. Shrimati Rukmani Bai
40. Shri Jugal Kishore
41. Shri N. R. Malkani
42. Shri Abdur Rezzak Khan
43. Shri Devendra Prasad Singh
44. Shri Abhimanyu Rath
45. Shrimati Jahanara Jaipal Singh.

DRAFTSMEN

Shri G. R. Rajagopaul, *Secretary, Ministry of Law.*

Shri N. Swaminathan, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri S. L. Shakdher—*Joint Secretary.*

Shri A. L. Rai—*Deputy Secretary.*

Report of the Joint Committee

I, the Chairman of the Joint Committee to which the *Bill to prohibit the giving or taking of dowry was referred, having been authorised to submit the report on their behalf, present this their report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Lok Sabha on the 24th April, 1959. The motion for reference of the Bill to a Joint Committee of the Houses (Appendix I) was moved by Shri Asoke K. Sen on the 5th August, 1959 and was discussed in the Lok Sabha on the 5th and 6th August, 1959 and adopted on the 6th August, 1959.

3. The Rajya Sabha discussed the motion on the 21st and 31st August and the 1st September, 1959 and concurred in the said motion on the 1st September, 1959. (Appendix II).

4. The message from the Rajya Sabha was read out to the Lok Sabha on the 3rd September, 1959.

5. The Committee held four sittings in all.

6. The first sitting of the Committee was held on the 10th September, 1959, to draw up a programme of work. The Committee at this sitting decided to hear evidence of associations and individuals desirous of presenting their suggestions or views before the Committee. The Chairman was authorised to decide, after examining the memoranda submitted by them, as to who should be called to give oral evidence before the Committee.

No evidence, however, was taken on the Bill.

7. Ten memoranda or representations on the Bill were received by the Committee from different associations and individuals as mentioned in Appendix III.

8. The Committee considered the Bill clause by clause at their sittings held on the 4th and 5th November, 1959.

9. The Committee considered and adopted the Report on the 6th November, 1959.

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*Published in Part II, Section 2 of the Gazette of India, Extraordinary, dated the 24th April, 1959.

10. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

11. *Clause* 1.—The Committee consider that it is desirable to bring the Act into force simultaneously in all the States.

The clause has been amended accordingly.

12. *Clause* 2.—The Committee feel that the words "whether directly or indirectly" should be inserted after the words "or agreed to be given" in order to prevent property being indirectly given as dowry.

In the opinion of the Committee the fixing of a limit of rupees two thousand for presents, ornaments, clothes etc., made at the time of marriage to either party thereto may have the effect of legalising dowry upto that amount and encouraging the giving or taking of dowry upto that limit. This would be defeating the very object of the Act namely, to do away with the system of dowry. They, therefore, feel that item (ii) may be omitted.

The clause has been amended accordingly.

13. *Clause* 3.—The Committee consider that an offence under this clause should evoke some deterrent punishment and therefore imprisonment as well as fine should be inflicted.

The clause has been amended accordingly.

14. *Clause* 6.—The Committee feel that the words "in contravention of the provisions of this Act" are unnecessary, especially when the permissible exception for presents up to rupees two thousand has been done away with in clause 2.

The Committee further feel that the clause should be amplified so as to make it clear that where the dowry was received at the time of or after the marriage, it should be transferred to the woman within one year after the date of its receipt.

The Committee also feel that offences under this clause also should be punishable with imprisonment as well as fine.

The clause has been amended accordingly.

15. *Clause* 7.—The Committee think that it would be desirable to make a specific reference also to the court of a presidency magistrate in this clause and that presidency magistrates and magistrates of the first class should be expressly empowered to

pass sentences authorised by the Act even though they may be beyond the powers conferred on them by the Code of Criminal Procedure, 1898.

The clause has been amended accordingly.

16. *Clause* 9.—The Committee feel that rules under the Act should be made by the Central Government so that they may be laid before Parliament and may be subject to their scrutiny.

The clause has been amended accordingly.

17. *Clause* 10.—The amendments made to this clause are consequential to the amendment made in clause 1.

18. The Joint Committee recommend that the Bill as amended be passed.

NEW DELHI;
The 16th November, 1959.

RENU CHAKRAVARTTY,
Chairman,
Joint Committee.

Minutes of Dissent

I

This Bill seeks to prohibit the system of dowry which is not only a great social evil but at times proves fatal to so many innocent girls of poor families. The custom has assumed a monstrous shape. It was with this object that the Bill was introduced and referred to the Joint Committee. The Bill as has emerged from the Joint Committee still lacks to become really effective. The measures—though looking very sound, will remain mere pious wishes unless given effect to. To give effect to the measures, the provision as laid down is too meagre and unattractive of any action. Under Section 7 of the Bill no Court will take cognizance without a complaint. It means that there must be a third party so interested in social reforms that he or she may spend both his or her valuable time and money in litigation to secure conviction. Unless a third party comes in, there will be no case and no punishment. As the parties concerned both—the taker and giver of the dowry, have been made equally liable to punishment, none of them will either refer a complaint or ever will be ready to come forward, to give evidence. For obvious reasons it could not be made cognizable, but Section 190 of the Criminal Procedure Code could easily be extended, wherein a magistrate is authorised to take cognizance of offences *suo motu,* or on an information received. This has not been done. So the cases of dowry will go unpunished. Then to make it a really living and effective law there should be some special provision to affect the Government Officials and Members of elective bodies. In Hindu Code the bigamous marriage has been declared void and punishable under Section 494 of the Indian Penal Code. But because of Section 198 of Criminal Procedure Code this salutary provision is becoming useless. But so far as the Government servants are concerned, it seems to have some positive effect. Government servant, possibly, if found marrying a second wife in the life-time of his first one, is liable to termination of his service. The fear of termination of service has really brought a deterrent effect on Government employees and it is here that this part of the Hindu Code is proving effective. Some such provision should be given a place either in the Bill itself or through Government notification. But there is no such provision. In my opinion, this is very much essential. I am only sorry to add that the Joint Committee did not adopt an amendment to this effect or declare such offences as involving moral turpitude.

In view of the above facts, while subscribing to the Bill as emanating from the Joint Committee, I retain my right of moving amendments in the House.

NEW DELHI; SINHASAN SINGH

The 6th November, 1959.

II

The Committee has deleted lines 18—21 on page 1, *i.e.*, clause 2(ii) of the Bill which reads as follows:—

"Any presents made at the time of the marriage to either party to the marriage in the form of ornaments, clothes and other articles not exceeding two thousand rupees in value in the aggregate". In effect the Bill now completely bans the payment of dowry. It appears to me that this is an impractical thing. Social customs having almost the sanction of religious belief permit "Kanya Dan" along with presents in cash, ornaments and clothes by the parents or guardian of the bride. Such payment is considered as auspicious and desirable on the occasion of marriage. Every caste in every State has the custom of giving such presents called "Dahej"" or "Tilak" differing only in form and value. Non-payment of any "Dahej" or dowry would be generally considered as inauspicious. In fact the poorest wants to and will in practice pay some "Dahej", however little, in the form of ornaments and clothes. All previous Acts (Andhra, Bihar, Kerala) make provision for payment of some reasonable "Dahej" like the provisions made in the original Central Bill. The evil is not in the payment of "Dahej", which is the most natural thing in almost all countries of the world, but in commercialising it so as to make it excessive and exacting. The remedy lies not in banning dowry, which will be like going from one extreme to another, but in fixing a reasonable maximum, as the original Bill did. Utter ban will result in reducing the Bill to a big joke, which no party will take seriously. Social evils of a wide-spread and deep-rooted nature, having a religious background, cannot be abolished by the ukase of any legislature.

On page 2, line 3 (clause 3) the Bill as amended substitutes "and also" for "or". The result is that the penalty for giving and taking dowry will be "imprisonment which may extend to six months and also with fine which may extend to five thousand rupees". The amendment intends to inflict a "deterrent" punishment by insisting on imprisonment. Deterrent punishments should be reserved for

grave offences involving moral turpitude subverting social life. Dowry is given and taken by almost all classes of persons without any feeling of committing any "crime" or "grave offence". In fact the "giver" of today becomes the "taker" of tomorrow. All are in the grip of an evil social custom which they would like to remove but do not know the way. They are not "criminals" but weak, thoughtless and somewhat greedy persons following an ancient custom. They deserve pity and not condemnation. On the other hand, does anyone expect that the parents or guardian of a bride will ever file a complaint against the bridegroom or his parents, which may result in their imprisonment? No amount of exaction of dowry will compel the bitterest father or guardian to shatter the domestic happiness of the bride, future family. In fact in all states where Dowry Acts operate there are hardly any cases of punishment by imprisonment. The amendment of clause 3 will be widely resented as unnatural and disruptive. The course of social legislation of this kind should be educative and evolutionary but not revengeful. The modern trend of criminology is to treat crime as a social disease to be cured not "punished" and repressed. In this case the emphasis should be on fine and on public disgrace and not on imprisonment as if of felons. Impatience and anger, however virtuous, in social legislation does not lead to social reform but to social hypocrisy and flouting of law. I also suggest that the "giver" of dowry should not be punished like the "taker". The giver gives under duress and social compulsions, often of his own daugther, the would-be bride. He is also to be the chief complainant in any case filed under this Act. Custom compels him to pay and now law punishes him if he complains. The law appears to me as more harsh than the custom and will, therefore, remain in abeyance while the custom will prevail.

NEW DELHI; N. R. MALKANI

The 6th November, 1959.

III

We do not agree with the amendment to clauses 3 and 6 seeking penalty of both imprisonment and fine to the offenders under this Act. To us the original clauses were alright. Originally, the penalty proposed was imprisonment or fine or both. This left the choice to the magistrate, who could award the punishment with due consideration of the nature, extent and seriousness of the offence committed. If the offence was so serious as to deserve punishment both with imprisonment and fine, the magistrate could do so. But after the amendment now the magistrate has no other alternative but to send the offender to prison as well as fine him whatever the nature of the case may

be. We consider this to be a serious issue which ought to have been given due consideration. It will be in the fitness of things if the House rejects the amended clauses and allows the original clauses in their places.

NEW DEIHI;
The 6th November, 1959.

BALKRISHNA WASNIK
NIBARAN CHANDRA LASKAR
ONKAR LAL

IV

In general we agree with the bill as amended in the Joint Committee. In clause 2 we would have liked the definition of "Dowry" to clearly cover cases where gold ornaments and money are given to daughter but in fact are given in pursuance of a demand by the bridegroom's father or relations in consideration of marriage and are in fact a very prevalent form in which dowry is demanded. We are not absolutely sure whether the words "direct or indirect" added in the clause by the Joint Committee cover these cases of dowry and would, therefore, have liked the clause to be redrafted to read:—

> In this Act "dowry" means any property or valuable security given or agreed to be given by the parents or guardians of the bride or groom or any other person on their behalf either to the bride or groom or to his parents, guardians or to any other person on their behalf either at the marriage or before or after the marriage as consideration for betrothal or marriage of the said parties.

NEW DELHI;
The 7th November, 1959.

ABDUR REZZAK KHAN
P. T. PUNNOOSE

V

If proclamation before the modern world was necessary that we are out to pass progressive social legislation, we have been able to prove by passing Untouchability Offence Act, Suppression of Immoral Traffic Act and other acts of similar nature and in addition to it by passing this law, that we are advancing with rapid strides much beyond expectation and anticipation. But if asked with what tangible result, in that case we can only say that by passing this law, we can achieve the success of adding another more dead law in this overlegislated age.

What is the use of this law, if the State does not want to take the responsibility? How the State thinks that its duty is ended with the passing of this law and the people will rush to the court with the selfless motive only for reforming the society by spending money from their own pockets and by standing the harassment of a litigation?

The life line of this law is the definition of the word 'Dowry'. My definite opinion is that the whole Act has been made infructuous by incorporation of the word 'Consideration' in clause 2. If the father of the bride openly pays ten thousand rupees to the bridegroom in the place itself where the marriage is being celebrated and declares that he is paying it as a token of love, who in this world is going to prove that it is not so but consideration, unless some sort of responsibility is thrown on the donor analogous to that as contemplated in sec. 105 and 106 of the Indian Evidence Act, though not strictly throwing the onus on him.

Another instance may be taken which is prevalent in our state—West Bengal. For sending the bridegroom to the foreign lands a pretty big amount of money is deposited by the bride's father in the bank just before or after the marriage as a part of the dowry, who is going to prove that it is consideration?

In order to make this law effective, the offence should be made cognisable and the investigation should be entrusted in the hands of the police not below the rank of the Deputy Superintendent with some safeguard and limitations so that the mirth and happiness of the occasion may not be marred. Unless that is done it will only enhance the beauty of the Statute Book. There may be some apprehension of police excess, even then we should bear it to cure a deeprooted malady which is corroding the vitals of the society.

It has been said that police strength is not sufficient as to take cognisance of large number of cases. It is not that in every marriage, the offence is committed and moreover the cognisance can be taken within a year. Further to put down the social evil, if it is necessary the police strength be increased for the purpose.

Another logic, I have not been able to follow. The case is made non-cognisable but at the same time non-compoundable. It should be made compoundable with the permission of court. No reason to insist on the pound of flesh.

Clause 6—The party intended to be benefited has been deprived of the longer period.

This Bill initially raised high hopes in the minds of the people and it is no wonder that hundreds of congratulatory letters will be received. But I am afraid that the people will be disillusioned after the passing of the Bill in the present form and this law will only prove elective despotism, if no attempt is made to make it effective.

NEW DELHI; SUBIMAN GHOSE

The 17th November, 1959.

VI

I regret I cannot agree for the deletion of sub-clause (ii) of clause 2 of the Bill, which permits presents and gifts being made to the extent of Rs. 2,000/-.

It is usual for the parents to give presents to their sons or daughters or to the sons-in-law, out of love and affection. In some cases making presents is part of the marriage rites. Some latitude must be allowed and to cover such *bonafide* cases, provision was made permitting presents upto Rs. 2,000/. The entire deletion of this clause prevents any present being made as it may be construed as a dowry and will lead to harassment. Some provision has to be made to cover such cases and I am of opinion that sub-clause (ii) of clause 2 may be retained and the amount provided therein may be reduced to Rs. 1,000/-.

I am also against the change in clause 3 which provides for compulsory imprisonment in all cases. This is after all a social evil and some times parents act out of compulsion. A difference also has to be made between the giver of the dowry and the receiver of the dowry. While the former acts under compulsion and desperation the latter is guided by lust and spirit of black-mailing. It is best to leave the quantum of punishment to the discretion of the magistrate. So the original clause making imprisonment optional may be retained.

NEW DELHI; J. M. MOHAMED IMAM
The 17th November, 1959.

VII

While I agree with the changes suggested by the Joint Committee, I feel that clause 8 should be suitably amended so that the offences under this Act should be made cognisable. To guard against harassment by petty officials, it may be mentioned that no officer below the rank of a Deputy Superintendent of Police shall be empowered to act.

It is true that legislation by itself cannot be effective in regard to the prohibition of dowry and what is required is a change in the social conscience. At the same time, since legislation is being enacted, offences under that Act are not cognisable. If under the Dowry known that the Child Marriage Restraint Act has not proved an effective measure. One of the major reasons for this is that the offences under that Act are not cognisable. If under the Dowry Prohibition Bill, the same flaw exists, then its effectiveness would be further whittled down.

NEW DELHI; RENUKA RAY
The 17*th November*, 1959.

VIII

Amongst the present social evils 'the Dowry' presents a formidable challenge since it has taken firm roots in the society at various levels. This Dowry system has become most oppressive and even ruinous to either of the parties to the marriage. Marriages apart from losing their sanctity have become commercial transactions. Exhorbitant and arbitrary demands by way of dowry have brought untold miseries in various sections of society whether educated or not disturbing peaceful family life and domestic harmony. No body in the land can support the Dowry system or its continuance. But this social evil like many others can be eradicated better by channelising public opinion in proper form by social workers. Legislative measure, though long awaited, can hardly and effectively wipe out this social evil. The present Bill being a legislative step to eradicate the social evil is welcome one. But the form in which it has emerged from the Joint Select Committee compels me to submit this minute of dissent.

The definition of dowry has undergone some change in the Joint Committee. The addition of the words "directly or indirectly" after the words 'to be given' is quite appropriate but with the omission of the presents mentioned in (2) (ii), the difficulties would arise. The present definition would cover the presents given by the parents at the time of marriage and might expose them to prosecution by anybody. The fear that presents upto certain limit might indirectly 'legalise' dowry to that limit can be well appreciated but the removal of proviso would bring forward malicious prosecutions as well. I think the original definition was a better one though the amount of two thousand mentioned therein may be suitably changed.

Retention of clause 3 in the present form to my opinion will nullify the whole purpose of the Bill. Nobody wants to give dowry 'voluntarily'. It is under compelling circumstances that a man parts with the amount of dowry. But if the 'giver' is to become an offender then no body would come forward to tender evidence for proving the consideration for marriage etc. There will hardly be any complaints if the 'giver' himself is to be punished. It is unthinkable that some 'third' persons would come forward and present 'complaints' at their own costs. Moreover the prosecutions in which both the parties to 'giving and taking' of dowry are in the docks were bound to fail since 'consideration' will never be proved. To add more the deterrent punishment in the clause will have the effect of not having recourse to law at all. Deterrent punishment certainly does have a salutory effect on the society, but punishment of this kind in offences

like dowry wherein both the parties are to be hauled up, will necessary have the result in the other direction, *viz.*, of "hushing up everything". 3 months imprisonment or fine might suit the purpose well. Punishments for other offences in the Bill also deserve to be changed in this context.

NEW DELHI;
The 17th November, 1959.

UTTAMRAO L. PATIL

Bill No. 33B of 1959

THE DOWRY PROHIBITION BILL, 1959

(AS REPORTED BY THE JOINT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions)

A

BILL

to prohibit the giving or taking of dowry.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Dowry Prohibition Act, 1959.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. * * *

Definition of "dowry".

2. In this Act, "dowry" means any property or valuable security given or agreed to be given, whether directly or indirectly, to one party to a marriage or to any other person on behalf of such party by the other party to the marriage or by any other person on behalf of such other party, either at the marriage or before or after the marriage, as consideration for the betrothal or marriage of the said parties, but does not include* dower or *mahr* in the case of persons to whom the Muslim Personal Law (*Shariat*) applies*.

* * * * *

Explanation.—The expression "valuable security" has the same meaning as in section 30 of the Indian Penal Code.

45 of 1860.

Penalty for giving or taking dowry.

3. If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment which may extend to six months, and also with fine which may extend to five thousand rupees. * *

Penalty for demanding dowry.

4. If any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

Agreement for giving or taking dowry to be void.

5. Any agreement for the giving or taking of dowry shall be void.

Dowry to be for the benefit of the wife or her heirs.

6. (*1*) Where * * * any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman—* * *

(*a*) if the dowry was received before marriage, within one year after the date of marriage; or

(*b*) if the dowry was received at the time of or after the marriage, within one year after the date of its receipt; or

(*c*) if the dowry was received when the woman was a minor, within one year after she has attained the age of eighteen years;

and pending such transfer, shall hold it in trust for the benefit of the woman.

(*2*) If any person fails to transfer any property as required by sub-section (*1*) and within the time limited therefor, he shall be punishable with imprisonment which may extend to six months, and also with fine which may extend to five thousand rupees; * * * but such punishment shall not absolve the person from his obligation to transfer the property as required by sub-section (*1*).

(*3*) Where the woman entitled to any property under sub-section (*1*) dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being.

(*4*) Nothing contained in this section shall affect the provisions of section 3 or section 4.

Cognizance of offences.

7. Notwithstanding anything contained in the Code of Criminal Procedure, 1898,— 5 of 1898.

(*a*) no court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence * * * under this Act;

(*b*) no court shall take cognizance of any such offence except on a complaint made within one year from the date of the offence;

(*c*) it shall be lawful for a presidency magistrate or a magistrate of the first class to pass any sentence authorised by this Act on any person convicted of an offence under this Act.

Offences to be non-cognizable bailable and non-compoundable.

8. Every offence under this Act shall be non-cognizable, bailable and non-compoundable.

Power to make rules.

9. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Repeals.

Andhra Pradesh Act 1 of 1958.
Bihar Act 25 of 1950.

10. * * * The Andhra Pradesh Dowry Prohibition Act, 1958, * * and the Bihar Dowry Restraint Act, 1950, are hereby repealed.

APPENDIX I

(*Vide* Para 2 of the Report)

Motion in the Lok Sabha for reference of the Bill to a Joint Committee

"That the Bill to prohibit the giving or taking of dowry be referred to a Joint Committee of the Houses consisting of 45 members; 30 from this House, namely:—

1. Shri J. M. Mohamed Imam
2. Dr. K. Atchamamba
3. Shri Nibaran Chandra Laskar
4. Shri Onkar Lal
5. Shrimati Jayaben Vajubhai Shah
6. Shri Balkrishna Wasnik
7. Shri Ram Krishan Gupta
8. Shri Mahendra Nath Singh
9. Shrimati Satyabhama Devi
10. Shri Sinhasan Singh
11. Shrimati Uma Nehru
12. Shri J. B. S. Bist
13. Shri Hifzur Rahman
14. Shrimati Renuka Ray
15. Shri Tekur Subrahmanyam
16. Dr. M. V. Gangadhara Siva
17. Shri V. Eacharan
18. Shrimati Sahodra Bai Rai
19. Pandit Babu Lal Tiwari
20. Shri S. R. Arumugham
21. Shri Radha Charan Sharma
22. Shri R. M. Hajarnavis
23. Shrimati Renu Chakravartty
24. Shri P. T. Punnoose
25. Shri Subiman Ghose
26. Shri Uttamrao L. Patil

27. Shri Braj Raj Singh
28. Shri Ignace Beck
29. Shri Khushwaqt Rai, and
30. Shri Asoke K. Sen

and 15 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee, the quorum shall be one-third of the total number of Members of the Joint Committee;

that the Committee shall make a report to this House by the end of the first week of the next session;

that in other respects the Rules of Procedure of this House relating to Parliamentary Committees will apply with such variations and modifications as the Speaker may make; and

that this House recommends to Rajya Sabha that Rajya Sabha do join the said Joint Committee and communicate to this House the names of Members to be appointed by Rajya Sabha to the Joint Committee."

APPENDIX II

(*Vide* Para 3 of the Report)

Motion in the Rajya Sabha

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to prohibit the giving or taking of dowry, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

1. Pandit S. S. N. Tankha
2. Shrimati T. Nallamuthu Ramamurti
3. Shri Akhtar Husain
4. Giani Zail Singh
5. Shri Sheel Bhadra Yajee
6. Shrimati Yashoda Reddy
7. Shri Bhagirathi Mahapatra
8. Shri Jethalal Harikrishna Joshi
9. Shrimati Rukmani Bai
10. Shri Jugal Kishore
11. Shri N. R. Malkani
12. Shri Abdur Rezzak Khan
13. Shri Devendra Prasad Singh
14. Shri Abhimanyu Rath
15. Shrimati Jahanara Jaipal Singh."

APPENDIX III

(*Vide* Para 7 of the Report)

Statement showing particulars of memoranda/representations etc. received by the Joint Committee and action taken thereon.

S. No.	Nature of document	From whom received	Action taken
1.	Memorandum	Anti-Dowry League, Hyderabad	Circulated to Members.
2.	Memorandum	Shri M. Bhaskara Rao, Visakhapatnam	Do.
3.	Memorandum	Shri S. N. Chakrabarti, New Delhi.	Do.
4.	Representation	Shri Pessumal N. Dhamani, Dehra Dun.	Placed in the Parliament Library and Members informed.
5.	Representation	Shri R. N. Naik, Bombay.	Do.
6.	Memorandum	Shri Prataprai T. Mehta, Bombay.	Do.
7.	Representation	Bombay State Women's Council Bombay.	Do.
8.	Representation	All-India Women's Co: ference, New Delhi.	Do.
9.	Memorandum	Sarvadeshik Arya Pratinidhi Sabha, New Delhi.	Do.
10.	Representation	National Federation of Indian Women, New Delhi.	Do.

APPENDIX IV

MINUTES OF THE SITTINGS OF THE JOINT COMMITTEE ON THE DOWRY PROHIBITION BILL, 1959.

I

First Sitting

The Committee met from 15.33 hours to 15.50 hours on Thursday, the 10th September, 1959.

PRESENT

Shrimati Renu Chakravartty—*Chairman.*

MEMBERS

Lok Sabha

2. Dr. K. Atchamamba
3. Shri Nibaran Chandra Laskar
4. Shri Onkar Lal
5. Shrimati Jayaben Vajubhai Shah
6. Shri Ram Krishan Gupta
7. Shri Mahendra Nath Singh
8. Shri Sinhasan Singh
9. Shrimati Uma Nehru
10. Shri Hifzur Rahman
11. Dr. M. V. Gangadhara Siva
12. Shri V. Eacharan
13. Shrimati Sahodra Bai Rai
14. Shri S. R. Arumugham
15. Shri Radha Charan Sharma
16. Shri R. M. Hajarnavis
17. Shri Subiman Ghose
18. Shri Uttamrao L. Patil
19. Shri Ignace Beck
20. Shri Khushwaqt Rai

21. Pandit S. S. N. Tankha
22. Shri Akhtar Husain
23. Shrimati Rukmani Bai
24. Shri Jugal Kishore
25. Shri Abdur Rezzak Khan
26. Shri Abhimanyu Rath.

DRAFTSMAN

Shri G. R. Rajagopaul, *Secretary, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Under Secretary.*

2. The Committee after discussing their future programme of sittings decided to meet from the 4th November, 1959.

3. The Committee considered whether any evidence should be taken by them and whether it was necessary to issue a press communique advising associations and individuals desirous of presenting their suggestions or views before the Committee in respect of the Bill to submit written memoranda thereon.

4. It was decided that a press communique might be issued advising associations, public bodies and individuals who are desirous of presenting their suggestions or views before the Committee in respect of the Bill to send written memoranda thereon to the Lok Sabha Secretariat by the 20th October, 1959.

5. The Committee authorised the Chairman to decide after examining the memoranda as to which of the Associations, public bodies etc. ought to be called to give oral evidence before the Committee.

6. The Chairman suggested that notices of amendments to the clauses of the Bill might be sent to the Lok Sabha Secretariat by the 20th October, 1959, for circulation to the Members of the Committee.

7. The Committee desired that copies of the following documents might be obtained from the Ministry of Law and circulated to the Members of the Committee:—

(i) The Andhra Pradesh Dowry Prohibition Act, 1958.

(ii) The Bihar Dowry Restraint Act, 1950.

(iiii) A note on the prosecutions launched under the above two State Acts.

(iv) A note on the Muslim Personal Law relating to *dower* or *mehar*.

8. The Committee then adjourned to meet again at 15.00 hours on Wednesday, the 4th November, 1959.

II

Second Sitting

The Committee met from 15.00 hours to 16.30 hours on Wednesday, the 4th November, 1959.

PRESENT

Shrimati Renu Chakravartty—*Chairman*

MEMBERS

Lok Sabha

2. Shri J. M. Mohamed Imam
3. Shri Nibaran Chandra Laskar
4. Shri Onkar Lal
5. Shri Balkrishna Wasnik
6. Shri Ram Krishan Gupta
7. Shri Mahendra Nath Singh
8. Shrimati Satyabhama Devi
9. Shri Sinhasan Singh
10. Shrimati Uma Nehru
11. Shri J. B. S. Bist
12. Shri Hifzur Rahman
13. Shri Tekur Subrahmanyam
14. Dr. M. V. Gangadhara Siva
15. Shri V. Eacharan
16. Shrimati Sahodra Bai Rai
17. Pandit Babu Lal Tiwari
18. Shri S. R. Arumugham
19. Shri Radha Charan Sharma
20. Shri R. M. Hajarnavis
21. Shri P. T. Punnoose
22. Shri Subiman Ghose
23. Shri Uttamrao L. Patil
24. Shri Braj Raj Singh

25. Shri Ignace Beck
26. Shri Khushwaqt Rai

Rajya Sabha

27. Pandit S. S. N. Tankha
28. Shri Akhtar Husain
29. Giani Zail Singh
30. Shrimati Yashoda Reddy
31. Shri Jugal Kishore
32. Shri N. R. Malkani
33. Shri Abdur Rezzak Khan
34. Shri Devendra Prasad Singh
35. Shri Abhimanyu Rath
36. Shrimati Jahanara Jaipal Singh.

DRAFTSMEN

Shri G. R. Rajagopaul, *Secretary, Ministry of Law.*

Shri N. Swaminathan, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

2. The Chairman informed the Committee that no person or association had been called for giving evidence.

3. The Committee then took up clause by clause consideration of the Bill.

4. *Clause* 2.—The following amendment was accepted:—

In page 1, line 10,—

after "agreed to be given" *insert* "whether directly or indirectly".

Discussion on the Clause was not concluded.

5. The Committee then adjourned to meet again at 11.00 hours on Thursday, the 5th November, 1959.

III

Third Sitting

The Committee met from 11.00 hours to 14.40 hours on Thursday, the 5th November, 1959.

PRESENT

Shrimati Renu Chakravartty—*Chairman.*

MEMBERS

Lok Sabha

2. Shri J. M. Mohamed Imam
3. Dr. K. Atchmamba
4. Shri Nibaran Chandra Laskar
5. Shri Onkar Lal
6. Shri Balkrishna Wasnik
7. Shri Ram Krishan Gupta
8. Shrimati Satyabhama Devi
9. Shri Sinhasan Singh
10. Shrimati Uma Nehru
11. Shri J. B. S. Bist
12. Shri Hifzur Rahman
13. Shri Tekur Subrahmanyam
14. Dr. M. V. Gangadhara Siva
15. Shri V. Eacharan
16. Shrimati Sahodra Bai Rai
17. Shri S. R. Arumugham
18. Shri Radha Charan Sharma
19. Shri R. M. Hajarnavis
20. Shri P. T. Punnoose
21. Shri Subiman Ghose
22. Shri Uttamrao L. Patil
23. Shri Braj Raj Singh
24. Shri Ignace Beck.

25. Pandit S. S. N. Tankha
26. Shri Akhtar Husain
27. Giani Zail Singh
28. Shrimati Yashoda Reddy
29. Shri Jugal Kishore
30. Shri N. R. Malkani
31. Shri Abdur Rezzak Khan
32. Shrimati Jahanara Jaipal Singh

DRAFTSMEN

Shri G. R. Rajagopaul, *Secretary, Ministry of Law.*

Shri N. Swaminathan, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

2. The Committee resumed clause by clause consideration of the Bill.

3. *Clause* 2 (*contd.*).—The following further amendment was accepted:—

In page 1,

Omit lines 18—21.

The clause as amended was adopted.

4. The following amendment for insertion of a new clause was ruled out of order by the Chairman as being beyond the scope of the Bill:—

In page 1,

after line 23, *add*—

"2A. If after the coming into force of this Act any party to to a marriage, or any other person interested in the marriage spends for such marriage a sum exceeding ten thousand rupees, he shall be punishable with imprisonment which may extend to six months or with fine which may extend to five thousand rupees, or with both."

5. *Clause* 3.—The following amendments were accepted :—

In page 2,

(i) line 3,

for "or" *substitute* "and also"

(ii) line 4,

Omit "or with both".

The clause as amended was adopted.

6. *Clauses* 4 *and* 5.—These clauses were adopted without any amendment.

7. *Clause* 6.—The following amendments were accepted:—

In page 2, (i) lines 14—16,

for "within one year of the date of the marriage or, if the woman is a minor, within one year after she has attained the age of eighteen years" *substitute*—

"(i) if the dowry was received before marriage, within one year after the date of marriage;

(ii) if the dowry was received at the time of or after the marriage, within one year after the date of its receipt; or

(iii) if the dowry was received when the woman was a minor, within one year after she has attained the age of eighteen years;"

(ii) line 20,

for "or" *substitute* "and also"

(iii) line 21,

omit "or with both".

The clause as amended was adopted.

8. *Clause* 7.—The following amendments were accepted:—

In page 2,

(i) line 31,

before "magistrate" *insert* "Presidency Magistrate or a"

(ii) *after* line 35, *insert*—

"(c) it shall be lawful for a presidency magistrate or a magistrate of the first class to pass any sentence authorised by this Act on any person convicted of an offence under this Act."

The clause as amended was adopted.

9. *Clause* 8.—The clause was adopted without any amendment.

10. *Clause* 9.—The following amendments were accepted:—

In page 1,

(i) line 3,

for "State" *substitute* "Central"

(ii) *for* lines 5-6, *substitute*

"(2) Every rule made under this ...laid, as soon as may be after it is m... House of Parliament while it is in sessi... period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule".

The clause as amended was adopted.

11. *Clause* 10.—The clause was adopted without any amendment.

12. *Clause* 1.—The following amendment was accepted:—

In page 1,

lines 7-8,

omit "and different dates may be appointed for different States".

The clause as amended was adopted.

The Draftsman was directed to carry out necessary amendments in clause 10 consequent on the amendment made in this clause.

13. The Draftsman was authorised to carry out minor changes of drafting nature in the Bill.

14. The Committee unanimously decided to waive the time gap of three days between the disposal of the clauses of the Bill by the Committee and consideration of the draft report as prescribed in Direction No. 78 and decided to consider the draft report at their next sitting to be held on the 6th November, 1959.

15. The Committee then adjourned to meet again at 18.00 hours on Friday, the 6th November, 1959.

IV

Fourth Sitting

The Committee met from 18.00 hours to 18.30 hours on Friday, the 6th November, 1959.

PRESENT

Shrimati Renu Chakravartty—*Chairman*

MEMBERS

Lok Sabha

2. Shri J. M. Mohamed Imam
3. Dr. K. Atchamamba
4. Shri Nibaran Chandra Laskar
5. Shri Onkar Lal
6. Shri Balkrishna Wasnik
7. Shri Ram Krishan Gupta
8. Shrimati Satyabhama Devi
9. Shri Sinhasan Singh
10. Shrimati Uma Nehru
11. Shri J. B. S. Bist
12. Shri Tekur Subrahmanyam
13. Dr. M. V. Gangadhara Siva
14. Shri V. Eacharan
15. Shrimati Sahodra Bai Rai
16. Shri S. R. Arumugham
17. Shri Radha Charan Sharma
18. Shri R. M. Hajarnavis
19. Shri Subiman Ghose
20. Shri Uttamrao L. Patil
21. Shri Braj Raj Singh
22. Shri Ignace Beck

Rajya Sabha

23. Pandit S. S. N. Tankha
24. Shri Akhtar Husain

25. Giani Zail Singh
26. Shri Sheel Bhadra Yajee
27. Shrimati Yashoda Reddy
28. Shri Jugal Kishore
29. Shri N. R. Malkani
30. Shri Abdur Rezzak Khan
31. Shrimati Jahanara Jaipal Singh.

DRAFTSMAN

Shri N. Swaminathan, *Additional Draftsman, Ministry of Law.*

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

2. The Committee adopted the Bill as amended.

3. The Committee then took up consideration of draft Report.

Some Members felt that a recommendation might be made in the Report to the effect that the Government should review the working of this Act after one year of its enforcement and might bring forward, if necessary, an amending legislation to make offences under this Act cognizable. The Committee decided not to make such a recommendation.

The draft Report was adopted with two minor changes.

4. The Chairman announced that the Report would be presented to the Lok Sabha on the 18th November, 1959 and laid on the Table of the Rajya Sabha on the 23rd November, 1959.

5. The Committee authorised the Chairman and in her absence, Shrimati Sahodra Bai Rai to present the Report on their behalf.

6. The Committee authorised Shrimati Yashoda Reddy and in her absence, Shrimati Jahanara Jaipal Singh to lay the Report of the Committee on the Table of the Rajya Sabha.

7. The Committee decided that Minutes of Dissent, if any, might be sent to the Lok Sabha Secretariat so as to reach them by 15.00 hours on Tuesday, the 17th November, 1959.

8. The Committee then adjourned.