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Friday
28th August, 1953

PARLIAMENTARY DEBATES

HOUSE OF THE PEOPLE

OFFICIAL REPORT

(Vol. III contains Nos. 1—25)

(Part I—Questions and Answers)

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THE
PARLIAMENTARY DEBATES
(Part I—Questions and Answers)
OFFICIAL REPORT

1239

1240

HOUSE OF THE PEOPLE

Friday, 28th August, 1953

*The House met at a Quarter Past Eight
of the Clock*

[MR. DEPUTY-SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

TECHNICAL TRAINING CENTRES

*884. **Prof. D. C. Sharma:** Will the Minister of Labour be pleased to state:

(a) the names of the universities to which its technical training centres are attached; and

(b) the nature of work that is done there?

The Deputy Minister of Labour (Shri Abid Ali): (a) No Technical Training Centre is attached to any University as such, but one Centre, namely the Industrial Training Centre, Banaras, is attached to the Engineering College of the Banaras University for workshop facilities.

(b) Training is imparted at this Centre in the trades of Draughtsman (Mechanic), Electrician, Lineman and Wireman, Machinist, Mechanic (I.C. Engine), Moulder, Turner, Overseer, Fitter, Draughtsman (Civil), and Engine Driver (Steam).

Shri A. M. Thomas: May I enquire whether these training facilities are afforded only to the students of the University or to outsiders also?

Shri Abid Ali: To outsiders only.

Prof. D. C. Sharma: May I know, Sir, if there is any proposal under consideration?

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sideration to have similar centres at other Universities in India?

Shri Abid Ali: Sir, the matter has been referred to the Shiva Rao Committee, as the hon. Member may be aware. After their report is received the question of training not only in the present centres but about new centres will be decided.

Shri T. S. A. Chettiar: Sir, is it not true that this technical training provided under the Ministry of Labour does not provide for Degree training or even Diploma training?

Shri Abid Ali: It is only a two years' training course, Sir, and we issue certificates.

Shri B. K. Das: May I know what is the total annual expenditure for this training centre?

Shri Abid Ali: In 1951-52, it was Rs. 79,900.

Shri N. M. Lingam: May I know, Sir, the number of training centres under the Employment Exchanges and the number of trainees in them?

Shri Abid Ali: The training centres in all are about 61. I have not got the figure of the trainees here.

Shri T. S. A. Chettiar: In view of the fact that Universities provide only degree courses, will the Government consider the advisability of starting them in places where University training does not exist?

Mr. Deputy-Speaker: It is a suggestion for action.

Prof. D. C. Sharma: May I know if the Ministry of Labour keeps any statistics of the persons who have been trained there and who have been able to get any gainful employment?

Shri Abid Ali: Sir, they are advised to enrol themselves in the nearest Employment Exchange and necessary efforts are made to place them. I believe most of them have been placed. But, I have not got the figures.

OVER-CROWDING IN TRAINS BETWEEN DELHI AND HARDWAR

*885. **Shri Dabhi:** (a) Will the Minister of Railways be pleased to state whether it is a fact that there is great over-crowding in the trains running between Delhi and Hardwar?

(b) If so, what steps do Government propose to take to remove this over-crowding?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shah Nawaz Khan): (a) A certain amount of over-crowding in Inter and Third classes was noticed on the Mussoorie and Dehra Dun Express trains between Delhi and Hardwar.

(b) An additional passenger train between Delhi and Hardwar was introduced in early June and the position regarding over-crowding has already improved considerably as a result.

Shri Dabhi: May I know, Sir, whether in view of the fact that Hardwar is a place of pilgrimage and there is always a great rush of passengers going there the steps that are taken by the Government are sufficient to remove the over-crowding?

Shri Shah Nawaz Khan: Ordinarily, there is a great rush when there are religious festivals and the Government is always conscious of this fact and takes appropriate steps.

Shrimati A. Kale: Is Government aware that there is general over-crowding in the third and inter class all over India and that inter-class and third-class passengers are the people who pay most to the railways?

Shri Shah Nawaz Khan: Yes, Sir, we are fully aware of this.

The Deputy Minister of Railways and Transport (Shri Alagesan): I should add, Sir, that the position has lately very much improved.

Shri A. N. Vidyalkar: May I know why is it not possible for the local station staff to attach one or two additional bogeys in cases of extreme over-crowding?

Shri Shah Nawaz Khan: It is done when there is any necessity for it.

Kumari Annie Mascarene: May I know, Sir, whether Government are aware that over-crowding of third class is common all over India and whether Government have taken any steps to give help to the travelling public?

Shri Shah Nawaz Khan: I have already answered this, Sir.

Mr. Deputy-Speaker: The question is between Delhi and Hardwar. We are going all over India—that question has also already been put by Shrimati Kale.

Kumari Annie Mascarene: He had not given the answer, Sir.

Mr. Deputy-Speaker: Because the answer was not given am I to allow every hon. Member to put a question?

Kumari Annie Mascarene: Sir, that question was about inter-class.

Mr. Deputy-Speaker: It was about both inter-class and third-class.

DERAILMENT OF AGRA-KATHGODAM TRAIN

*886. **Sardar A. S. Saigal:** (a) Will the Minister of Railways be pleased to state whether it is a fact that the Agra-Kathgodam passenger train derailed near Achnera station on the 31st May, 1953?

(b) How many passengers sustained injuries and how many of them died?

(c) What were the causes of the derailment?

(d) What loss have Government incurred on account of this accident?

(e) Has any investigation been made and if so, with what result?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shah Nawaz Khan): (a) No derailment occurred to Agra-Kathgodam Passenger train near Achnera station on 31st May, 1953 as stated in the question, but three bogies fourth, fifth and seventh from the engine of 320 Down Ahmedabad-Agra Express train derailed in Achnera yard at about 7:26 hours on 31st May, 1953.

(b) No one was killed or injured.

(c) and (e). An enquiry was held into this accident by a Committee of District Railway Officers. The cause of the accident has not yet been finally determined.

(d) The approximate cost of damage to railway property was Rs. 225.

AGRICULTURAL EXTENSION TRAINING CENTRE

***887. Shri K. P. Sinha:** Will the Minister of Food and Agriculture be pleased to state whether it is a fact that an Agricultural Extension Training Centre is going to be started or has been started in Himachal Pradesh at the cost of the Government of India?

The Deputy Minister of Food and Agriculture (Shri M. V. Krishnappa): Yes, an Extension Training Centre has been opened at Mashobra in Himachal Pradesh. The cost of the centre is to be met by the Government of India, Technical Cooperation Administration, the Ford Foundation and the Himachal Pradesh Government.

Shri K. P. Sinha: May I know the nature and the period of training?

Shri M. V. Krishnappa: The training centre has been set up for the purpose of training village level workers to supervise and man the community projects.

Shri S. N. Das: May I know the number of trainees trained annually in this centre?

Shri M. V. Krishnappa: This centre has been started on the 15th June and there are already 40 workers trained there.

Shri S. N. Das: I want to know the capacity of this organisation to train. How many persons will be trained annually?

Shri M. V. Krishnappa: Forty persons in this centre.

Shri L. N. Mishra: May I know whether such centres are being started at other places also?

Shri M. V. Krishnappa: There are a number of such centres all over the country.

Shri K. P. Sinha: May I know if there is any special training given to these trainees with regard to modern scientific methods of farming?

Shri M. V. Krishnappa: They have been trained in agricultural co-operation, panchayats, village housing, public health, sanitation and hygiene, animal husbandry, fishing etc.

Shri Barman: What is the period of training?

Shri M. V. Krishnappa: Six months.

Prof. D. C. Sharma: How can the whole of the syllabus be covered in this short period?

Mr. Deputy-Speaker: The hon. Member may go and see.

Shri Achuthan: May I know whether this training is given as a short-term course or whether there will be any other training for a long-term course, and what is the stipend that is given to the students?

Shri M. V. Krishnappa: It is a sort of training centre for village level workers and they are trained there for six months. Then they are put in charge of the community project centres and they are rendering service there.

UNEMPLOYMENT

*888. **Shri Radha Raman:** (a) Will the Minister of Labour be pleased to state whether Government are collecting statistics of educated unemployed persons in different States through the Employment Exchanges year after year?

(b) If so, what is their number, State-wise?

(c) How do the figures for this year compare with those of the last year?

(d) What further steps do Government propose to take to decrease this number?

The Deputy Minister of Labour (Shri Abid Ali): (a) Statistics in regard to educated persons (Matriculates and Graduates) registered with the Employment Exchanges have been collected since May, 1952.

(b) and (c). A statement comparing the position as at the end of May, 1952 with that at the end of June, 1953, is placed on the Table of the House. [See Appendix IV, annexure No. 41.]

Exchange statistics show an increase of about 32,000 such employment seekers, 30,000 being Matriculates and 2,000 being Graduates.

(d) Steps to find avenues of employment to educated unemployed, are under the active consideration of the Planning Commission which has already addressed State Governments indicating possible lines of action.

Shri C. D. Pande: Is Government aware that most of the people do not enlist themselves in the Employment Exchanges; therefore, the figures taken from them should not be considered as really figures of unemployed?

Shri Abid Ali: Of course, we are aware that all the unemployed persons do not enrol themselves with the Employment Exchanges.

Shri Radha Raman: Have Government any scheme to establish centres in other sectors to find out the real position of unemployment in the country?

Shri Abid Ali: These exchanges are not established to find out the position of unemployment: the purpose of the exchanges is to find employment for the unemployed persons.

Shri P. C. Bose: Are all the candidates registered with the employment exchanges 'unemployed', or some of them may be holding some jobs?

Shri Abid Ali: Most of them claim that they are unemployed at the time of registration.

Shri P. C. Bose: What percentage is likely to be in employment?

Mr. Deputy-Speaker: He said that a large percentage is unemployed.

Shri T. S. A. Chettiar: Is the Government in a position to make a comprehensive statement as to how they propose to tackle this problem?

Shri Abid Ali: As I have said, a letter has already been addressed by the Planning Commission to the State Governments indicating the steps which are proposed to be taken in this matter.

Shrimati A. Ka'e: May I know whether there are any women among the unemployed?

Shri Abid Ali: Yes, Sir, many.

Shri Jaipal Singh: Is it a fact that in Jamshedpur in the State of Bihar the Steel company has its own independent employment exchange?

Shri Abid Ali: Some industrial establishments have got their departments for the purpose of keeping a register of such persons whom they may be needing in the near future.

Kumari Annie Mascarene: May I know, Sir, when trained nurses are available in the country and remain without employment, why Government get nurses from America and other countries and employ them here on T. C. A. basis which is meant only for industries?

Shri Abid Ali: We do not bring anyone from outside.....

Kumari Annie Mascarene: Suppose, I give you evidence?

Shri Abid Ali: What I meant to say was that such of the experts who are necessary for technical or scientific purposes only are brought from outside and not such incumbents, as mentioned by the hon. Member.

Kumari Annie Mascarene: I can prove that people with less qualifications are brought here.

Mr. Deputy-Speaker: The hon. Member will please send the information to the Minister.

Shri Sarangadhar Das: Inasmuch as the unemployment problem is so acute and reports are coming from all over the country, do Government have any plan to determine the number of unemployed and under-employed people in the country?

Mr. Deputy-Speaker: There seems to be a Resolution before the House.

Shri A. N. Vidyalkar: The hon. Minister just now stated that employment exchanges are not meant to collect data of unemployed. Then, what other methods are adopted to gather complete and accurate data regarding unemployment of a permanent nature, as well as of intermittent nature?

Shri Abid Ali: A question was put whether we will open offices in other sectors to find out the position of unemployment. To that I replied that the main purpose of the employment exchange is to find out employment for those who seek employment through the exchanges.

Shri Punnoose: In Travancore-Cochin State the number of unemployed has increased from 2,889 to 5,580. This, I hope, is the largest percentage in India. May I know, Sir, whether there is any instruction from the Planning Commission or the Government of India or any quarter to lower the percentage of students promoted from the School Final, the B.A., and other examinations—as revealed by the recent examination results of only 18 or 20 per cent. promotions?

Shri Abid Ali: The letter which has been addressed by the Planning Commission will cover Travancore-Cochin State also.

Shri Jaipal Singh: Is there any co-ordination between the employment exchanges run by the Ministry of Labour and the Soldiers', Sailors' and Airmen's Board of the Ministry of Defence? If the answer is in the affirmative, with what results?

Shri Abid Ali: I would require notice of that question.

Shri Gidwani: May I know whether any reports of cases of suicide among the educated unemployed have been received by Government?

Shri S. N. Das: What was the number of employment exchanges in 1952 and what is the present number?

Shri Abid Ali: Over one hundred.

Shri S. N. Das: Has there been any increase or decrease?

Shri Abid Ali: There has been no increase or decrease.

KEY FARM CENTRES

*889. **Shri S. C. Samanta:** Will the Minister of Food and Agriculture be pleased to state:

(a) how many Key Farm Centres have so far been started under the auspices of the Indian Council of Agricultural Research with the purpose of improving the cattle and buffaloes through artificial insemination;

(b) how many trained personnel have been stationed in each centre; and

(c) how this artificial insemination method in India is working in comparison with the results obtained in other countries of the world especially U.S.A.?

The Deputy Minister of Food and Agriculture (Shri M. V. Krishnappa): (a) and (b). A statement giving the required information is laid on the Table of the House. [See Appendix IV, annexure No. 42.]

These centres are aided financially by the Central Government direct and not through the Indian Council of Agricultural Research.

(c) Artificial insemination on field scale was taken up in India only recently. So far the results obtained compare favourably with those of other countries.

Shri S. C. Samanta: May I know, Sir, the maximum number of centres for key villages and artificial insemination Government intend to open in the near future and whether Government propose to open those centres in community project areas?

Shri M. V. Krishnappa: When we started the scheme towards the end of 1951-52 our target figure was 150 artificial insemination centres and 600 key villages. Now we have reached about 96 artificial insemination centres and we like to add to the number about 31 artificial insemination centres and 292 key villages this year.

सेठ गोबिन्द दास : कृत्रिम गर्भाधान के मामले में क्या इस बात का ध्यान रखा जा रहा है कि जो नस्लें बनाई जायें वह इस प्रकार की बनाई जायें जिस से कि खेती के बैल भी अच्छे हों और गायों भी अच्छी हों ? कुछ नस्ल ऐसी हैं जिन में सिर्फ गाय अच्छी होती हैं और कुछ ऐसी हैं जिन में सिर्फ बैल ही अच्छे होते हैं ।

Shri M. V. Krishnappa: Attention has been paid to both milching and draught animals.

Shri M. Khuda Baksh: What percentage of these artificially impregnated animals have normal gestation and give birth to calves?

Shri M. V. Krishnappa: It is said that on an average under natural insemination two services are needed for consummation of an animal. Here under artificial insemination the result goes up to 60 to 75 per cent. That means it is more than the natural insemination.

Shri S. C. Samanta: May I know whether all the recommendations of the Cattle Preservation Committee have been accepted by Government? If not, why have the other recommendations been left out?

Shri M. V. Krishnappa: I want notice.

Shri Muniswamy: May I know, Sir, whether it is a fact that a conference was held recently to consider the question of artificial insemination by the officers of this Department?

Shri M. V. Krishnappa: Recently there was a conference.

Shri M. D. Ramasami: How many centres have been opened in Madras State?

Shri M. V. Krishnappa: In Madras there are about eight centres of artificial insemination and each centre is attached to four key villages. There is one centre in Hosur, one in Nidubrolu, one in Ammanabrolu, one in Kanga-yam, one in Vellakoil, one in Chin-chona, one in Valparai, District Coimbatore, and one in Idayakottai.

Shri Punnose: From the statement placed on the Table I find that these centres are opened mostly in towns, at least in my part of the State. The Government of India having given aid to centres, will they see that these centres are made use of by villagers also?

Shri M. V. Krishnappa: 99 per cent. of these centres are opened only in the villages. For each centre we have attached four villages and in each village we have got 500 cattle. We have castrated all the stray bulls in that area and provided breeding bulls.

LOCUST CONTROL

*890. **Sardar A. S. Saigal:** (a) Will the Minister of Food and Agriculture be pleased to state how much amount will Government spend in 1953-54 on locust control?

(b) How are State Governments helping to minimise the locust menace?

The Deputy Minister of Food and Agriculture (Shri M. V. Krishnappa):

(a) It is estimated that Government of India will spend about Rs. 9 lakhs on the Locust Warning Organisation and Rs. 14 lakhs on the Co-ordinated Locust Control Scheme in scheduled desert breeding areas of Rajasthan, Saurashtra, Bombay, Kutch and PEPSU, during the current financial year. The latter amount will be subsequently recovered from the beneficiary States on an agreed basis.

(b) The vulnerable States have their own Anti-Locust Organisations to fight the locust menace in their respective cultivated areas. They also contribute towards the Co-ordinated Anti-Locust Scheme sponsored by the Central Government.

Shri N. M. Lingam: May I know the extent of scheduled desert area in which the Government of India operate directly and the extent of area under the operation of the State Governments?

Shri M. V. Krishnappa: I do not have the figures in terms of square miles of area, but the scheduled desert areas are in Rajasthan, Saurashtra, Bombay, Kutch and PEPSU.

Shri N. M. Lingam: What is the extent of area usually infested by locusts?

Shri M. V. Krishnappa: I want notice for giving the square miles.

Shri Barman: Is it a fact that the contributing States are not paying their contributions to the Centre and, if so, what are the steps that Government propose to take?

Shri M. V. Krishnappa: They are paying.

Shri Muniswamy : May I know whether planes are used in these anti-locusts operations?

Shri M. V. Krishnappa: Yes, there are two planes which we have got from the T. C. A. and those are used during the peak periods which are the three months of July, August and September.

Shri Punnoose: Has it come to the notice of the Government that there is a variety of birds like the sparrow which is eating up locusts in large numbers?

The Minister of Food and Agriculture (Shri Kidwai): It has successfully operated in Rajasthan.

Shri M. V. Krishnappa: In today's papers there is something about a bird *bayya*. I am told it is doing a lot of anti-locust work.

BUILDINGS FOR POST OFFICES

***891. Shri S. C. Samanta:** Will the Minister of Communications be pleased to state:

(a) the number of post-offices that are housed in rented buildings in India;

(b) the amount of rent, the Posts and Telegraphs Department has to pay annually;

(c) whether Government contemplate to construct post-office buildings of their own on lands available; and

(d) if so, whether plans have been prepared for Postal buildings?

The Deputy Minister of Communications (Shri Raj Bahadur): (a) In all 4,702 post offices are housed in rented buildings in India.

(b) The annual rental bill paid by the Posts and Telegraphs Department for these buildings comes to Rs. 21,53,920.

(c) Yes.

(d) Yes.

Shri S. C. Samanta: May I know whether Government have a definite scheme for the future construction of post office buildings? If so, may I know the priorities of the different offices?

Shri Raj Bahadur: I would refer the hon. Member to the answer to part (d) of the question. As regards the respective priorities I am not able to give it offhand.

Shri S. C. Samanta: Is it not a fact that the Planning Commission apprehended that the amount of work in the post offices has enhanced to a great extent and, if so, may I know how much sum has been fixed for this purpose in the Five Year Plan and also whether any additional sum has been granted?

Shri Raj Bahadur: A sum of Rs. 2,50,00,000 has been provided in the Five Year Plan for providing new buildings for post offices, R. M. S. offices, administrative offices, quarters, etc.

Kumari Annie Mascarene: May I know whether the public in any part of India have offered to give buildings for post offices and telegraph offices?

Shri Raj Bahadur: Not the public, but one or two industrial concerns did offer to construct buildings for the department.

Shri Gidwani: Is it a fact that one of the post branch office in Delhi is located in a niche under a staircase?

Shri Raj Bahadur: There are many post offices in Delhi. Which particular post office does the hon. Member refer to, I do not know.

Shri Veeraswamy: May I know the number of post offices housed in private buildings in Madras State?

Shri Raj Bahadur: I have not got the State-wise or circle-wise break-up.

Shri Nanadas: May I know whether any of these post offices have been housed in Harijan localities?

Shri Raj Bahadur: Many.

Shri A. M. Thomas: May I know whether the figures given by the hon. Minister include those post offices—one for two thousand, which have been opened as part of the Five Year Plan?

Shri Raj Bahadur: This is the overall figure. The hon. Member will appreciate that it is not possible for us to provide buildings for branch post offices, particularly extra-departmental branch post offices which are opened on the basis of a special scheme.

Shri S. N. Das: Arising out of the answer to part (c) of the question, may I know what is the programme for the current year?

Shri Raj Bahadur: Construction of twelve post office buildings, apart from buildings for residential quarters and R.M.S. offices.

Shri U. M. Trivedi: May I know whether the Plan also includes the construction of residential quarters for postmasters and clerks?

Shri Raj Bahadur: I have already said so, Sir.

RAILWAY HIGH SCHOOL COMPOUND AT KHARGPUR

***892. Shri S. C. Samanta:** (a) Will the Minister of Railways be pleased to state whether it is a fact that the Indian Railway High School compound at Khargpur is being used by lepers at night?

(b) Is it also a fact that some of the peons of the School were attacked with leprosy?

(c) If so, what steps have been taken by Government to keep away the lepers from the school compound?

(d) Is there any proposal to construct walls around the boundaries of the school?

(e) If so, when will the work be taken in hand?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) No Sir.

(b) One of the peons of the school has been found to be affected with leprosy and he has been granted leave for treatment at a recognised Leprosy Clinic.

(c) to (e). The main school building is enclosed but the primary sections and the gymnasium have no boundary wall. Sanction has already been accorded to the construction of a boundary wall and the work will be undertaken very shortly.

Shri S. C. Samanta: Is it not a fact that in 1951 the General Manager of the then B. N. Railway informed us

that the compound is being infested and gave an assurance that a compound wall will be built? If so, may I know why this proposal has been dropped?

Shri Shah Nawaz Khan: A sum of Rs. 7,314 has already been sanctioned for the construction of the compound wall and the work will be started very early.

Shri S. C. Samanta: May I know the reason why after 1951 it was not taken up and the hon. Minister is answering me, in part (a) of the question, that it is not being infested?

Shri Shah Nawaz Khan: The only case of leprosy that occurred in the school was in April 1950 when one peon of the school, who was living one mile away, was found to be infested with the disease. He was admitted to a leprosy clinic and in September 1951 he was declared medically fit and non-infectious. But after three months he again developed signs of leprosy and he has been sent to a leprosy clinic. That is the only case.

Shri S. C. Samanta: Will my hon. friend take the trouble to enquire whether it is not a fact that the peon who was infested with the disease was living in the school compound at night, and not one mile away?

The Deputy Minister of Transport and Railways (Shri Alagesan): We can make enquiries, Sir, but this is our present information.

INTERNATIONAL WHEAT AGREEMENT

*894. **Shri Keshavaiah:** (a) Will the Minister of Food and Agriculture be pleased to state when the International Wheat Agreement entered into by India will expire?

(b) Is it being renewed?

(c) If so, for how many years is it being renewed?

(d) What is the value of wheat imports from 1948 onwards?

The Deputy Minister of Food and Agriculture (Shri M. V. Krishnappa): (a) The International Wheat Agree-

ment entered into by India in 1949 expired on the 31st July, 1953.

(b) It has already been renewed with effect from the 1st August, 1953.

(c) For 3 years i.e., from the 1st August, 1953 to the 31st July, 1956.

(d) The value of wheat imported during the calendar years 1948 to 1953 is as follows:—

Year	Amount in Lakhs of Rupees
1948	46.76
1949	74.88
1950	47.23
1951	141.14
1952	128.44
1953 (Jan.-June)	39.92

Some Hon. Members: The last figures, we are not able to follow.

Shri M. V. Krishnappa: From January to June, Rs. 39.92 lakhs.

Mr. Deputy-Speaker: The hon. Minister was referring to 1958.

Shri M. V. Krishnappa: 1953; I am sorry.

Shri V. P. Nayar: May I know whether in the International Wheat Agreement, there is any quality specification?

The Minister of Food and Agriculture (Shri Kidwai): No. It is open to us to purchase any quality that we like.

Shri Gopala Rao: May I know what are the rates fixed for the purchase in comparison with the last agreement rates: the maximum and minimum?

Shri Kidwai: The maximum this year has been raised from \$1.80 to \$2.05. The present market price is \$1.81. Therefore, it is almost the same as last year. Last year, they were charging something for carrying charges. It has been included in the price this year. Just now we will get it cheaper than we got last year.

Shrimati Tarkeshwari Sinha: In view of the fact that the stock of wheat has been piling up with the Central Government, do Government propose to import the full quota allotted to India by the International Wheat Agreement?

Shri Kidwai: We have already reduced it. Our quota was 15 lakh tons. It has been reduced to 10 lakh tons.

Shri V. P. Nayar: The hon. Minister was reading out figures of the value paid for foodgrains. May I know the corresponding figures for freight paid as also, if possible, the break-up for foreign and Indian shipping?

Shri Kidwai: If a separate question is put, we will supply the information.

Mr. Deputy-Speaker: This question relates to the International Wheat Agreement.

Shri V. P. Nayar: May I know whether it is a fact that American ships enhanced the freight considerably to transport these foodgrains to India?

Shri Kidwai: It was not always the American ships that were bringing wheat to India.

Shri Raghavaiah: In view of the statement made by the Deputy Minister some time back that we have attained self-sufficiency in food this year, may I know the reason for importing this wheat? May I know whether this import up to 1956 means that we will be deficient in foodstuffs?

Shri Kidwai: We never claimed that we have become self-sufficient. Even before the war, we were importing 15 lakh tons of rice from Burma and some wheat. Our imports are being reduced every year. As I have said, we have contracted for the import of only one million tons of wheat. Perhaps we will not import any rice.

श्री गोविन्द दास : क्या जैसा अभी माननीय मंत्री जी ने कहा कि १५ लाख टन थे अब उन्होंने यह तै किया है कि हम दस लाख टन ही मंगावेंगे । क्या निकट भविष्य में और भी घटने की सम्भावना है ?

श्री किडवाई : यह १५ लाख टन तो हम इंटर नेशनल व्हीट ऐग्रीमेंट में खरीदते थे और उसके अलावा बहुत सा गेहूं हम ओपिन मार्केट में खरीदते थे जिसके दाम बहुत होते थे ।

इस साल हमने सिर्फ इंटरनेशनल व्हीट ऐग्रीमेंट का गेहूं मंगाया था और आयन्दा साल से उसको भी घटा कर दस लाख टन कर दिया है ।

Shri Punnoose: In answer to a supplementary question, whether in the International Wheat Agreement there is any quality specification, he replied that you can choose anything you like. If that is so, may I know why there was a complaint that large quantities of imported wheat were useless?

Shri Kidwai: I can only say that at that time, over and above what we purchased under the International Wheat Agreement, we were purchasing large quantities. We found that the persons who were responsible for inspection made some mistakes and we got wheat that we should not have got.

Shri U. M. Trivedi: What amount of wheat is lying with the various Governments and what quantity of it is already rotten?

Shri Kidwai: We will require notice.

Shri Gopala Rao: What is the mechanism through which we can inspect the wheat that is imported in our country? Is there any mechanism?

Shri Kidwai: We have got a Purchasing Mission there in Washington and they arrange for this inspection.

Shri Gopala Rao: That means no representative of the Indian Government?

Shri Kidwai: They are under the Government of India.

Shri Muniswamy: May I know what methods are adopted or procedure is followed to find out whether the same quality of wheat for which agreement has been entered is sent to India?

Shri Kidwai: The agreement is about the quantity. It is open to us to purchase the best or the worst.

Kumari Annie Mascarene: What steps are being taken against these

who are responsible for purchasing the wheat that has been spoiled?

Shri Kidwai: No steps are being taken.

Shri Dabhi: The hon. Minister said that we want to import some wheat, at least, one million tons, from outside while we do not want to import any rice. Then, how is it that the Government want to remove the control on wheat while they want to continue the control on rice?

Shri Kidwai: Because we have sufficient wheat to provide every one according to his requirements while rice that we are producing is just more than sufficient to meet our rationing commitments. If we allow it to be sold freely, then, the prices will go up because it is still short of our requirements. The wheat that we are importing is being used as a substitute for rice in rice-eating areas.

Shri Dabhi: Why do we not import rice from outside?

Shri Kidwai: The outside prices are too high for our requirements.

EXPANSION OF DESERT AREAS

*895. **Shri A. N. Vidyalkar:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether it is a fact that the financial provision made by Government in the budget for the year 1952-53 to arrest the expansion of the desert areas has mostly remained unutilised;

(b) if so, the reasons therefor?

The Deputy Minister of Food and Agriculture (Shri M. V. Krishnappa): (a) and (b). The budget provision had to be revised due to:—

(1) delay in obtaining financial sanction of the scheme;

(2) unavailability of trained technicians; and

(3) difficulty in obtaining land.

Shri A. N. Vidyalkar: May I know the areas where steps are being taken to check the expansion of desert and

how much has been spent this year and with what results?

Shri M. V. Krishnappa: The area is across the Pakistan-Hindustan border: 400 miles in length and 5 miles width. A five mile deep belt of forest has to be raised in that area. According to our scheme there was a provision for Rs. 2,32,000, we spent about Rs. 70,000 last year.

Shri A. N. Vidyalkar: I was asking about this year.

Shri M. V. Krishnappa: There is a provision for Rs. 4 lakhs; we hope to spend more than what has been provided for.

Shri A. N. Vidyalkar: What has been already spent and with what results?

Shri M. V. Krishnappa: I cannot give the figures. What we spend this year we will be able to know only at the time of the Budget.

Shri Jangde: May I know the total area and the total population in the actual desert where nothing is grown?

The Minister of Food and Agriculture (Shri Kidwai): That information cannot be got out of this question. We would require notice.

Shri N. M. Lingam: May I know the rate at which the desert areas are expanding annually and apart from measures for the arrest of expansion of the desert, whether the provision in the Budget includes schemes for reclamation and arrest of soil erosion in the desert areas?

Shri M. V. Krishnappa: It is an accepted fact, that the desert is on the march, and in its onward march, it is said that it is approaching Delhi at the rate of half a mile per year. We had appointed an *ad hoc* committee and they have gone into the matter and have submitted a report. We are spending money according to the recommendations in that report. It is expected that if we execute the recommendations of this committee, we will be able to arrest the onward

march of the desert to a considerable extent.

Mr. Deputy-Speaker: Next question.

Shri S. V. Ramaswamy: What is the distance of the desert from Delhi?

SUGAR

*896. **Dr. Ram Subhag Singh:** Will the Minister of Food and Agriculture be pleased to state the total quantity of sugar released by the Government of India since the beginning of June, 1953, for sale in the open market?

The Deputy Minister of Food and Agriculture (Shri M. V. Krishnappa): 3,62,756 tons.

Dr. Ram Subhag Singh: What quantity of this released sugar has so far reached the market for internal consumption?

The Minister of Food and Agriculture (Shri Kidwai): From the beginning of the season, that is, 1st December, we have released for the open market about 14.91 lakh tons—from December up to now. Only 2.04 lakh tons could not be moved on account of shortage of wagons. The balance has reached the market.

डा० राम सुभग सिंह: इस समय फँकटरी में कुल कितनी चीनी है ?

Shri Kidwai: 2.04 lakhs of tons is the quantity of sugar released but not despatched. 2.42 lakhs of tons is the unreleased quantity. The total is 4.46 lakhs of tons.

डा० राम सुभग सिंह: जिस प्रकार ईख की कम से कम (minimum) कीमत निश्चित की गयी है उसी प्रकार क्या सरकार सोच रही है कि चीनी की भी मिनिमम कीमत निश्चित करे ?

श्री किडवाई: शूगर की मिनिमम कीमत मुक़र्रर करना बहुत मुश्किल है।

डा० राम सुभग सिंह: य मिनिमम कीमत निश्चित करने में सरकार के सामने क्या क्या कठिनाइयाँ हैं ?

श्री किडवाई: जब तक कि गवर्नमेंट पूरी मारकेटिंग अपने हाथ में न ले ले, उस वक्त तक कीमत मुक़र्रर करना ब्लैक मारकेटिंग को एनकरेज करना है।

डा० राम सुभग सिंह: क्या सरकार ने ईख की मारकेटिंग का पूरा प्रबन्ध अपने हाथ में ले लिया है ?

श्री किडवाई: ईख की मारकेटिंग का पूरा काम ज्यादातर बिहार और यू० पी० में तो कोओपरेटिव सोसायटीज करती हैं और उन को जो मिनिमम प्राइस मुक़र्रर है वह मिलती है।

श्री सी० डी० पांडे: क्या जो चीनी हाल में बाहर से आई है उससे कीमत गिरने की उम्मीद है ?

श्री किडवाई: उस से कीमत तो बहुत गिर सकती थी, लेकिन हम चाहते हैं कि जो फँकटरी की कंट्रोल प्राइस है उस से नीचे न बेची जाय।

श्री सी० डी० पांडे: मेरे कहने का मतलब यह है कि चीनी की इस वक्त जो आप की कीमत है उस से वह ४ रुपये मन ज्यादा बिक रही है। तो क्या यह उम्मीद हो सकती है कि ४ रुपये ज्यादा न बिक कर उस कीमत पर बिके जिस पर कि आप उस को बेचना चाहते हैं ?

श्री किडवाई: इसी लिये वह शूगर मंगाई गई है कि चीनी उस कीमत पर बिके जो गन्ने की प्राइस मुक़र्रर होने पर होनी चाहिये। उम्मीद है कि उस पर बिकने लगेगी।

सेठ गोविन्द दास: कीमत को गिराने के लिये क्या अभी और शूगर बाहर से मंगाने का विचार है ?

श्री किडवाई: हम ने तय किया है कि दो लाख टन चीनी बाहर से मंगायेंगे।

श्री सिंहासन सिंह : क्या यह सही है कि आजकल मिल तीस रुपये के भाव पर तेजी से चीनी बेच रहे हैं ?

श्री किदवाई : आजकल जब कि शुगर कम है तो यह कुदरती बात है कि लोग तेजी से बेच रहे हैं। लेकिन तीस रुपये के भाव तो कलकत्ते में बिक रही है, तो एक्स मिल प्राइस उतनी नहीं हो सकती।

Shri T. K. Chaudhuri : May I know who are handling this imported sugar, the Government themselves or any private agencies?

Shri Kidwai : Government themselves.

Shri Raghaviah : Is this sugar released in the market within the purchasing capacity of the common man? If not, will the Government make any efforts to see that it is within his purchasing capacity?

Shri Kidwai : According to our figures, sugar consumption has increased by 50 per cent. which means that the consumers find it better or easier to purchase sugar rather than gur.

Shri Gidwani : Is it a fact that some months ago, the Government, in order to reduce the price of sugar in the Bombay market, sent certain wagons to Meerut, but the mill-owners refused to load them, and so the wagons returned empty?

Shri Kidwai : That may be correct, because the mill-owners were prepared to send sugar only to those persons for whom it was sold. And so they could not send sugar to Bombay.

Shri Gidwani : Is it a fact that the Government wanted to take action against the defaulters, since they refused to load the wagons, which returned empty, and Government had to suffer loss?

Shri Kidwai : No, Sir. Government have not suffered any loss. Under the scheme, 2.04 lakhs of tons of sugar

have been released, but could not be despatched. If they are to be despatched, then they will be despatched only to those places where it has been purchased.

Shri V. B. Gandhi : Will the Government give the landed cost of imported sugar? How does it compare with the ex-factory price of sugar in the country?

Shri Kidwai : The landed cost of the sugar, excluding duty will be roundabout Rs. 19-8-0 to Rs. 21-8-0.

Shri V. B. Gandhi : What will it be, including duty?

Shri Kidwai : Rs. 5-2-0 has to be added on to the price of every variety of sugar that is imported.

रासायनिक खाद

*८९७. डा० राम भुभग सिंह : (क)

क्या खाद तथा कृषि मंत्री यह बतलाने की कृपा करेंगे कि क्या यह तथ्य है कि रासायनिक खाद खरीदने के लिये भारत सरकार ने राज्य सरकारों को ऋण दिये हैं ?

(ख) यदि हां, तो वर्ष १९५३-५४ में अब तक कितनी कितनी धन राशि ऋण स्वरूप विभिन्न राज्य सरकारों को दी गयी है ?

The Deputy Minister of Food and Agriculture (Shri M. V. Krishnappa) :
(a) Yes.

(b) A statement showing the required information is placed on the Table of the House.

STATEMENT

Short-term loans given to various States for purchase and distribution of chemical fertilisers during 1953-54.

(Rs. in lakhs)

Name of State	Amount of loan given
Assam	7.98
Bihar	48.48
Madhya Pradesh	63.80
Punjab	17.53

Name of State	Amount of loan given
U. P.	116.00
West Bengal	101.42
Hyderabad	63.34
Madhya Bharat	9.77
Mysore	16.75
PEPSU	6.76
Rajasthan	18.79
Ajmer	0.34
Bhopal	3.27
Coorg	3.46
Vindhya Pradesh	3.18
TOTAL	480.87

Dr. Ram Subhag Singh: Is the hon. Minister in a position to state the total amount so far utilised by the State Governments?

Shri M. V. Krishnappa: We have loaned about Rs. 4.80 crores, already; and there is a provision of Rs. 8 crores in the budget.

Dr. Ram Subhag Singh: What amount out of that loan has already been utilised by the State Governments?

The Minister of Food and Agriculture (Shri Kidwai): We cannot say anything, unless we receive the accounts from them. If they demand more than the amount loaned, they will have to spend first all that has been advanced already.

Shri A. M. Thomas: From the statement, I find that only some States find a place in the list. For instance, Travancore-Cochin is missing. May I know whether these States have not applied to the Central Government for loan, and so they have not been granted or whether there is any other reason?

Shri M. V. Krishnappa: Some of these States had some carry-over of fertilisers from last year.

Shri N. M. Lingam: Am I to understand that the Madras State has not availed of this loan, because their ways and means position is satisfactory?

Shri M. V. Krishnappa: Even in the State of Madras, they had a carry-over of nearly a lakh of tons. They were supplied 40,000 tons this year also.

Shri N. M. Lingam: From the statement I find that no loan has been sanctioned this year.

Shri Kidwai: I will require notice about that, as to why the Madras Government has not taken any loan this year. But Madras was the only State which was given a loan last year and the year before that.

Shri T. K. Chaudhuri: From the statement I find that the largest amount of loan has been given to West Bengal and Uttar Pradesh. Have the Government any information about the principal crops for which these fertilisers were used? Is it a fact that the major part of these fertilisers given to U.P. and West Bengal were principally employed in sugar-cane and tea plantations?

Shri Kidwai: I do not think it is correct. The Bengal Government have this year arranged to supply them specially to rice-growing areas.

Shri Shivananjappa: May I know whether the different State Governments are supplying these fertilisers at subsidised rates to the ryots?

Shri Kidwai: They have given the fertilisers on credit, and will realise the price at the time of cutting the crops.

Shri Nanadas: May I know whether there is any condition that the State Government should purchase chemical fertilisers from the Central Government sources or from anybody else?

Shri Kidwai: The only source is the Central Government. There is nobody else trading in this commodity.

Shri M. D. Ramasami: May I know the channels through which fertilisers are distributed in the Madras State?

Shri M. V. Krishnappa: Through co-operative societies and private agencies.

जहाज

*८९८. सेठ गोविन्द दास : क्या परि-
वहन मंत्री यह बतलाने की कृपा करेंगे कि :

(क) वर्ष १९५२-५३ में कितने भार-
तीय जहाज तटवर्ती व्यापार में संलग्न हैं ?

(ख) कितने जहाज वैदेशिक व्यापार
में संलग्न हैं ?

(ग) कितने जहाज भारतीय नौ-सेना
में अंगीभूत हैं ?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) and (b). The number of Indian ships engaged in the coastal and foreign trades varied at different times during 1952-53, but according to the latest available information, there are at present 89 and 24 Indian-owned ships in the coastal and foreign trade respectively. Besides these, there are also 10 ships chartered by the Indian Shipping companies which are all plying in the coastal trade.

(c) The hon. Member evidently wants to know the number of merchant ships attached to the Indian Navy. The answer is nil.

सेठ गोविन्द दास : जहां तक इन जहाजों का सम्बन्ध है वहां तक १९५०-५१ और १९५१-५२ में इन की जो आवश्यकता थी उस ओर से १९५२-५३ में यह संख्या बढ़ी है या घटी है ?

Shri Alagesan: I am not able to follow the figures mentioned by the hon. Member.

सेठ गोविन्द दास : यह जो जहाज इस वक्त चल रहे हैं इन में से हमारे देश में बने हुए जहाज ज्यादा हैं या बाहर से जो हम खरीदते हैं वे ज्यादा हैं ?

श्री अलगेशन : बाहर से जो हम खरीदते हैं वे ज्यादा हैं ।

सेठ गोविन्द दास : क्या और कुछ जहाज हिन्दुस्तान में बन रहे हैं और क्या और भी कुछ जहाज बाहर से खरीदने का विचार किया जा रहा है ?

श्री अलगेशन : हमारे विभाग की याद में हम बना रहे हैं और बाहर से भी हम खरीदते हैं ।

Shri V. P. Nayar: May I know, Sir, what is the percentage of cargo handled in the coastal trade to the total cargo handled in India's entire sea-borne trade by Indian shipping?

Shri Alagesan: As far as the coastal trade is concerned, the hon. House is aware that it has been reserved completely for Indian shipping.

Shri V. P. Nayar: That is not the question. What is the percentage of cargo handled by Indian shipping in India's entire sea-borne trade?

Shri Alagesan: I should like to have notice for that.

Shri Punnoose: The number of Indian ships engaged in coastal trade as well as foreign trade has been given in the Statement. May I know the corresponding foreign ships engaged in these?

Shri Alagesan: As I said, in the coastal trade there are no foreign ships, except chartered ships by Indian shipping companies. In the foreign trade, I do not know the number. I cannot give the number exactly now.

Shri V. P. Nayar: Is it not a fact that over 95 per cent. of India's foreign trade is handled by foreign shipping?

Shri Alagesan: Yes, most of it is handled by foreign shipping.

SUGAR PRICE

*899. Shri Jhulan Sinha: Will the Minister of Food and Agriculture be pleased to state:

(a) the formulae for fixing the price of sugar at present;

(b) the period for which it has been in force;

(c) whether there is any proposal to revise it; and

(d) the representative, if any, of consumers of sugar on the expert committee which suggests revision of the said formulæ?

The Minister of Food and Agriculture (Shri Kidwai): (a) The price of sugar is fixed after taking into account the minimum price of cane, cane cess, co-operative societies' commission, excise duty, the manufacturing charges calculated on the basis of a standard schedule, and profit margin.

(b) Since 1937. But values are adjusted every year according to the variations in the cost of different items on the basis of prevailing prices.

(c) Yes. An Expert Committee to revise the schedule was appointed in November, 1951. The final report of the Committee is expected to be received shortly.

(d) There is no representative of the consumers on the Expert Committee.

Shri Jhulan Sinha: May I know, Sir, whether, in fixing the price of sugar this year, there was any understanding between the Government and the manufacturers, and if so, what was the basis on which that understanding was arrived at?

Shri Kidwai: There was no understanding between the Government and the sugar factories about the price of sugar except this, that 25 per cent. of their production will be reserved to be released by the Government at the calculated price, because there was no price fixed. But the sugar was to be released at the price calculated on the basis of the cane price.

Shri Jhulan Sinha: May I know, Sir, whether, when the sugar policy of the Government was announced this year, there was a clause that if the price of sugar rose unreasonably high, the Government might proceed to fix the price statutorily?

Shri Kidwai: There was no such provision, but as I said, 25 per cent. of the sugar was reserved to be released at a given price, and I find that although some part of it has been released by Government to be sold in control shops, the prices fixed are not lower than in the open market.

Dr. Ram Subhag Singh: May I know, Sir, whether the commission given to the co-operative societies is uniform throughout the country, and whether the co-operative societies are utilising that commission for the purpose for which that is being given to them?

Shri Kidwai: I think that is a State subject, but if the hon. Member puts a question, we shall get the information from the different States. But I can tell him that the commission and some development fund were being given to these co-operative societies and there is a large amount of cess, and all this was for developing the roadside cane. Now, I was surprised to hear from a mill-owner that the Bihar Government issued instructions that trucks should not be used on the road for carrying cane, and therefore there was some difficulty because there were no railway stations. I am trying to remove this difficulty.

Shrimati Tarkeshwari Sinha: May I know whether a conference called for fixing the international price of sugar took place in London, and if so whether the Indian price of sugar will be at all affected by this international conference?

Shri Kidwai: No. it will not be affected because, as I have said, our prices are much higher than the international price, and we have found that although our production has gone up, we are not in a position to export. Therefore we did not participate in this conference, because the conference was for producers for fixing the price. But we have got a reservation that after two years or three years, the position will be reviewed after looking into our production and the possibility of exports.

Mr. Deputy-Speaker: Next question. We are having a two-hour discussion on Monday on sugarcane and sugar prices.

श्री बिभूति मिश्र : उपाध्यक्ष जी, मैं आपकी आज्ञा से एक बहुत जरूरी सवाल पूछना चाहता हूँ जिसका जवाब दिया जाना बहुत जरूरी है।

सरकार ने एक सवाल के जवाब में उत्तर दिया है कि नार्थ बिहार में शुगरकेन का कास्ट आफ प्रोडक्शन १०५ से १२५ रुपये तक पड़ता है, जब पांच आने मन ट्रांसपोर्ट चार्ज है तो ऐसी हालत में शुगरकेन की कीमत एक रुपया पांच आने है जब कि उसका कास्ट आफ प्रोडक्शन एक रुपये पांच आने से अधिक पड़ता है और मंत्री जी कहते हैं कि शुगरकेन की कीमत शुगरकेन के कास्ट आफ प्रोडक्शन के मुताबिक ठीक किया जाता है ?

Mr. Deputy-Speaker: This is more an argument than a question.

श्री बिभूति मिश्र : यह आरगुमेंट नहीं है।

Mr. Deputy-Speaker: Order, order.

RAILWAY FARE

*900. **Shri M. L. Agrawal:** (a) Will the Minister of Railways be pleased to state whether sometimes if a direct railway ticket is purchased between two stations, the fare charged is more than if tickets for the same distance are purchased in two instalments?

(b) If so, why?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shah Nawaz Khan): (a) Yes.

(b) In the case of 1st and 2nd classes, fares below Rs. 5/- are rounded off to the next higher anna and fares of Rs. 5/- and above to the next higher four annas. Consequently, in some cases, when the fares of the different parts of the journey are

less than Rs. 5/- but the total fare is more than Rs. 5/-, the fare of the total journey becomes higher than the sum total of the two fares. Another reason for the difference in fares is the existence of adjusted fares between specific pairs of stations. As these adjusted fares are not available for through traffic passing through either of the stations, it may work out cheaper to purchase tickets in two instalments.

Shri M. L. Agrawal: Does the Government want to continue this practice?

The Deputy Minister of Railways and Transport (Shri Alagesan): We are having it examined.

Shri Muniswamy: May I know, Sir, whether it has come to the notice of the hon. Minister that in some stations the fare printed on the ticket is struck off by the Booking Office and something is written, creating a suspicion to the passengers? May I know the reasons therefor?

Shri Alagesan: Perhaps old ticket might have been used like that. I do not know the reason for that, but there need not be any suspicion in the minds of the passengers.

DIVERSION OF DELHI-AHMEDABAD MAIL

*901. **Shri U. M. Trivedi:** Will the Minister of Railways be pleased to state:

(a) whether it is a fact that the Delhi-Ahmedabad Mail has been diverted from its chord line route to a longer route since June 1953;

(b) whether through passengers from and to Delhi and Ahmedabad have to pay extra 40 miles fare on account of this diversion; and

(c) whether it is a fact that no such extra charge is levied on passengers travelling between Calcutta and Delhi whether the train goes via the usual line or by the grand chord?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) Yes; from 16-4-53.

(b) Yes.

(c) Yes

Shri U. M. Trivedi: Is the Government going to amend it in view of the answer to (c)?

Shri Alagesan: No, Sir. This has been done with a view to provide greater convenience to the passengers travelling by the longer route, and we do not propose to have it reduced.

Shri U. M. Trivedi: Perhaps the hon. Minister has not understood my question. If the answer to (c) is in the affirmative, if you are not going to charge more for passengers from Delhi to Calcutta, why should you charge passengers from Delhi to Ahmedabad if they travel by the longer route? They do it not of their own accord.

Shri Alagesan: There is difference between the two cases. With regard to Delhi-Calcutta, there is heavy congestion of passengers traffic, and it is to the benefit of the Railways from the point of view of operation, to carry them in two different routes, and therefore, we charge the same fare for the longer route as for the shorter route. As far as Delhi-Ahmedabad is concerned, it has been done not for any operational convenience of the Railways, but to meet the wishes of the public, and that is the difference.

Shri U. M. Trivedi: Is the Government aware that the public is against it? Is the Government aware that Government servants are paid only at the rate for the shorter route? Is the Government aware that the Members of Parliament are also paid at the rate for the shortest route?

Shri Alagesan: In the House itself speeches were made; Members made requests that the Mail trains should be diverted via the longer route, and there were other representations also because Jaipur happens to be on the main line which is the longer route and it is the capital of Rajasthan. We do not have any information that the people are against this change.

Mr. Deputy-Speaker: The Question Hour is over.

Now, short notice question No. 64, Dr. Rama Rao. I shall allow the other hon. Members who have also tabled short notice questions on this, to put supplementaries.

Short Notice Questions and Answers

GODAVARI FLOODS

I. Dr. Rama Rao: Will the Minister of Home Affairs be pleased to state:

(a) Whether Government have received any reports regarding the breaches in the river Godavari, near Rajahmundry, in Madras State;

(b) the extent of loss caused to the people by the submerging of the town of Rajahmundry and other low lying areas surrounding it; and

(c) What immediate steps Government propose to take to relieve the people of the acute distress they are in?

The Minister of Home Affairs and States (Dr. Katju): (a) Yes.

(b) and (c). A copy of the report received from the Government of Madras is laid on the Table of the House. [See Appendix IV, annexure No. 43.]

A final assessment of the damage caused to life and property has yet to be made. Loss of human life is believed to be not more than 26 including 14 persons who were drowned due to the sinking of a boat. Damage to crops and property, particularly house property, has been reported to be extensive. All possible relief measures immediately needed for the evacuation of the affected families, supply of food-stuffs and provision of shelter and medical supplies to prevent the outbreak of epidemics have already been taken by the Government of Madras.

No specific request for any assistance, financial or other, has yet been received by the Central Government; but two aircraft were placed at the

disposal of the Madras Government for the dropping of supplies over the affected areas. 100 tons of milk powder have also been supplied and further 100 tons will be sent shortly.

There are adequate stocks of food-grains in the Madras State to meet the situation; if required, additional stocks will be sent.

The Army has instructions to assist whenever its help is needed.

Dr. Rama Rao: The statement says on page 8: "The housing problem perhaps presents greatest difficulties as mentioned earlier. Practically all the poor people have lost their houses and considerable sections of the middle class families have also suffered." On page 7, paragraph 15 says: "Most of the people in the affected areas had to leave almost all their belongings behind." Now, Sir, unfortunately I have to put the whole thing in a question form. In spite of the commendable speed with which the Madras Government have moved in the matter, in spite of the prompt help given from various sources, like the Tanjore Cyclone Relief Fund, are the Government aware that nearly 2,000 square miles of area have been affected and nearly 10 lakhs of people have been affected, and are the Government also aware.....

Mr. Deputy-Speaker: Why all these questions together?

Dr. Rama Rao: Unfortunately, the whole thing has to be in a question form.

Mr. Deputy-Speaker: He has made a statement.

Dr. Rama Rao: Are the Government aware that the help rendered is not sufficient and are the Government going to give any liberal grant from the Central fund?

Dr. Katju: Wherever these extensive floods occur, whether they are in the Godavari or in the Mahanadi or in Damodar—wherever they do occur—very large tracts are affected and very many people suffer. That goes

without saying. About the grant from the Central Exchequer, much will depend upon the final assessment of the damage, upon the resources possessed by the State concerned, as to how far they can go, and the request made by them to the Central Government. Every request, I daresay, will, under these circumstances, be considered here with the utmost sympathy. I cannot go beyond that.

Shri Raghuramaiah: May I know, Sir, why food droppings from the air have been stopped? You were good enough to say something about that.

Dr. Katju: The report says, Sir—I do not know whether my hon. friend has got the report—that while the flood was at its height, various 'lankas' had been formed—I mean various islands had been formed; I have not come across this expression in Northern India—and they were not accessible. Therefore, the only way in which relief could be afforded and food supplies made was by dropping from the air. Within two or three days the water fell, the river dropped and the places became accessible, and then boats were used.

Shri Raghuramaiah: I have got one more question. The report says that lakhs of acres of paddy crop have been submerged. May I know, Sir, since it affects the food problem, whether the Government have any scheme of helping the agriculturists to start a second crop?

Dr. Katju: You must give the Government—everybody can understand that—a few more days. As I said, there has to be a final appraisal of the problem as to what is needed and what is not needed. Every help will be given, in regard to submerged areas, property—everything.

Shri Raghavaiah: In view of the enormity of the loss of life, crops and damage to irrigation channels caused by the inundation of the Godavari floods, may I know whether, in addition to the plan chalked out by the Madras Government to give sufficient relief to the destitutes and others

affected, the Government of India propose any plan?

Mr. Deputy-Speaker: Apart from what the Madras Government is doing, has the Government of India contemplated any particular plan independently of the Government of Madras?

Dr. Katju: It would be highly improper for the Government of India to have any independent plans of their own. It is a matter for the State Government in the first instance. We are awaiting their final report and final request. It is true that it is very extensive. In my knowledge, in Orissa we had a flood like this and then in Bengal; the Damodar is the river of sorrow and the Kosi is the river of sorrow. Everywhere this is so.

Shri K. S. Rao: (*Spoke in Telugu*)

Mr. Deputy-Speaker: The hon. Member wants to know whether the Government are supplying free food to labourers who depend on agricultural labour.

Dr. Katju: I cannot answer this question definitely, Sir. But the report indicates that there were free food supplies made extensively through official agency as well as through reliable non-official agency, and 29 grain shops had been opened in the town of Rajahmundry. My hon. friend is distinguishing labourers from others. The Government of Madras have been looking after all poor people without any distinction. But I should like also to add here, in addition to what the Government of Madras have said, that the country owes a great deal to the very valiant, gallant and selfless effort which has been made both by officials and by the villagers—non-officials—who have combined together to meet this calamity. It came all of a sudden, within two days, and the Government of Madras, say, everybody from the highest officer downwards to the lowest revenue staff and the villagers and non-officials worked with great

strain in saving themselves and in assisting themselves and others as much as they could. I think it is a glorious example of what can be done by united effort.

Shri Krishnacharya Joshi: May I know, Sir, how many villages were affected in the Hyderabad State?

Dr. Katju: I do not know.

Shri H. N. Mukerjee: In view of the recurrence of floods on a major scale in different parts of the country, to which the Minister has made a reference, why is it that the Government cannot benefit from past experience and be ready with quick relief on occasions such as these?

Dr. Katju: If the hon. Member were to read the report, I think, in this particular case the Government almost acted with electric rapidity.

Shri Sarangadhar Das: May I know, Sir, with reference to giving help to the cultivators to grow a second crop on the fields that have been submerged and in respect of crops that have been damaged, if any help has to be given, will not the final assessment be too late for the purpose?

Dr. Katju: As soon as the water subsides and if it becomes possible to grow crops, I am absolutely certain that the cultivator there will not need any begging from us. He will see to it that the second crop is sown there and then and if any help is required then the Madras Government and the new Andhra Government will give it.

Pandit Thakur Das Bhargava: In view of the magnitude of the calamity, may I know if the Government are sponsoring any non-official relief measures from the States through the Chief Minister or non-official agencies in the other States?

Dr. Katju: I think some funds have been given. The Prime Minister issued some help and one of my colleagues, Mr. Giri has gone to Rajahmundry and he will bring on-the-spot report to us. Non-official agen-

cies have also raised some subscriptions and relief funds have been opened in Madras too.

Dr. Rama Rao: May I know, Sir, that in view of the fact that a large section of handloom weavers have been seriously affected by the floods, have the Government any proposal to contribute something from the Textile Fund to the handloom weavers who are ruined?

Dr. Katju: I shall communicate this suggestion to the hon. the Chief Minister of Madras State.

Shri N. M. Lingam: Is it a fact, Sir, that the behaviour of the Godavari for the last one hundred miles has not been investigated and this factor has been responsible for the lack of adequate precautionary measures by the Government?

Dr. Katju: I do not know whether this has any connection with the question but I may add for the information of the House that from several years there has been, what is called, the Godavari Project under the consideration of the Government. It was estimated to cost in the beginning about Rs. 110 crores. Later I heard that it would cost about Rs. 240 crores. Expert advice has been taken from world famous engineers and so far as I know the opinion is divided whether the proposition is a feasible one or not. But please do not forget that there are some rivers which do behave like this, then what can be done?

Shri Gopala Rao: In view of the fact that in the affected areas cholera is spreading in a virulent form, are the Government prepared to send some medical missions and medicines from the Centre?

Dr. Katju: Reports indicate that already a large medical staff has been sent there and if more help is needed it will be sent.

PRICES OF GASOLINE AND KEROSENE

II. Shri M. L. Dwivedi: (a) Will the Minister of Works, Housing and

Supply be pleased to state what are the different prices prevailing in India of gasoline and kerosene as compared to the prices before the last World War and during the War?

(b) What are the causes for the rise in prices?

(c) What is the percentage of profits which the Assam Oil Company are making?

(d) What are the production prices and landed prices of gasoline and kerosene?

(e) What is the justification for the prevailing rates?

(f) Are Government taking any steps to arrest the onward trend in the rise in prices and to reduce them to the pre-war level?

The Deputy Minister of Works, Housing and Supply (Shri Buragohain): (a) and (b). Retail prices of Petrol and Kerosene before the war the maximum prices during the war and as at present current (f.o.r. main installations) are placed on the Table of the House. [See Appendix IV, annexure No. 44.]

The increase includes the higher incidence of such factors as duties and taxes, transportation costs, devaluation etc.

(c) In the last few years the profits of the Assam Oil Company have been high, but it is the contention of the Company that account should be taken of the undistributed profits ploughed back into the business, in earlier years and that these profits accrue to the holding Company, namely Burma Oil Company Limited, and that that Company's final profits are quite moderate. They also say that the holding Company spends large amounts for survey and exploration work on behalf of the Assam Oil Company and that this should not be ignored.

(d) No information is available regarding the production prices. As regards the current landed prices,

the c.i.f. costs together with the import duty, are as follows:—

Petrol	..	Rs. 1-10-0	per gallon.
Kerosene	..	Rs. 6-5-4	per unit of 8 Imp. gallon.

(e) The price structure of Petroleum products is based on a formula agreed upon between the Oil Companies and Government on the basis of the internationally accepted f.o.b. Gulf price.

(f) As under the existing arrangement the oil companies fix their retail prices in consultation with Government, Government gets frequent opportunities to review these prices and to the extent circumstances permit, Government ensure that no undue increase takes place.

Shri M. L. Dwivedi: The hon. Minister has not replied in precise terms to part (c) of my question as to what is the percentage of profits which the Assam Oil Company are making.

Shri Buragohain: I have said that the percentage of profits is high. The Government are aware of the figures of profits earned by the Assam Oil Co. for the four years 1948 to 1951 and on the basis of calculation it works out to between 100 per cent. to 300 per cent.

Shri M. L. Dwivedi: Will the Minister state as to what is the reason that since the days of the war the prices of kerosene and petrol have gone up to more than double?

Shri Buragohain: In case of superior kerosene it is true that the increase in price has taken place to the extent of 91 per cent. and in the case of inferior kerosene the increase is 104 per cent. over pre-war prices but this is accounted for by factors like devaluation, increased transportation charges and increased cost of raw materials etc.

Shri M. L. Dwivedi: May I know, Sir, if the hon. Minister is aware that the price of petrol, as mentioned by him in the statement, is Rs. 2/5/- per

gallon but the consumer has to pay Rs. 2/13/6 per gallon. May I know, Sir, the reason for the difference?

Shri Buragohain: The figure, as I have given, is Rs. 2-5-0 with regard to petrol, and it is f.o.r. main installations—that means, the ports. To this have to be added other elements, like sales tax which comes now to about six annas, inland transport charges, dealers' commission and the rest.

Shri Sarmah: Is it a fact that the prices of petrol vary in different States and that in Assam it is the highest, although the sales-tax is lower and although the production in that State is high and the company is deriving profits from 100 per cent. to 300 per cent. per annum?

Shri Buragohain: In reply to a question in the other House, I said it is true that the price of petrol in Assam is higher than that in most parts of the country except in a few outlying places. The main point is that the basis of the price, whether the petrol is produced in the country or is imported from outside, is the same, namely, that it is based on the American Gulf price.

Shri Sarmah: From the previous answer of the hon. Minister I gathered that Government have an opportunity of reviewing petrol prices from time to time. Would the hon. Minister be pleased to state what justification is there, if any, for Government to allow Gulf Parity formula to operate in a place like Dibrugarh, where petrol is produced and to fix the price at the maximum rate in India?

Shri Buragohain: The Government go into the elements that make up the price. There are certain elements in this price structure over which Government have no control. For instance, the f.o.b. Mexico Gulf price, which is fixed and over which Government have no control. But there are elements like the profits of the company, the inland transportation costs, and also what is known as the ocean

loss, etc: These are the elements which Government go into periodical-ly and after that the prices are in-creased or decreased.

Shri Sarmah: In modern econo-mics, probably the Government is considered as a partner in the industry as without the former's protection an industry cannot exist.

Mr. Deputy-Speaker: The Member need not argue.

Shri Sarmah: Quite so. But what justification is there to extend protec-tion to this company to charge such abnormal price.....

Mr. Deputy-Speaker: Abnormal profit?

Shri Sarmah: Abnormal price.

Mr. Deputy-Speaker: The hon. Member goes again and again to that point. What is the need for it?

Shri Sarmah: It will be in recent memory that a member of manage-ment shot down.....

Mr. Deputy-Speaker: The hon. Member may put a straight question,—why should the company get 300 per cent., which will mean adding to the cost in every State—does the hon. Member want to know that?

The Minister of Works, Housing and Supply (Sardar Swaran Singh): Messrs. Assam Oil Company, Ltd., are a subsidiary company of Messrs. Burma Oil Company. The company is registered in the U.K. They hold all the issued share capital of Messrs. Assam Oil Co., Ltd. The dividends distributed to the shareholders during the postwar period by Messrs. Burma Oil Company are as follows:—

1946	12½ per cent.
1947	12½ per cent.
1948	12½ per cent.
1949	15 per cent.
1950 .	15 per cent., and a bonus of 6 per cent.
1951	21 per cent.
1952	15 per cent.

The above figures of dividends are not very high as compared with the dividends paid by other oil companies to their share holders, some of which for 1952, are as follows:—

Anglo-Indian Oil Company 35 per cent.

Royal Dutch Petroleum
Co., 16 per cent.

Shell Transport and
Trading Company 15 per cent.

Anglo-Egyptian Oil Fields 12½ per cent.

Then, Sir, it is important to remember that we depend upon imports for our petroleum requirements and the pro-duction of Assam Oil Company meets only a small percentage of our re-quirements.

Dr. Ram Subhag Singh: Sir, the hon. Minister just compared the pro-fits of the Assam company with the profits earned by the Anglo-Iranian Oil Company. May I know, Sir, whe-ther the Government of India will also take steps as Dr. Mossadeq had taken against the Anglo-Iranian Com-pany?

Sardar Swaran Singh: We have no intention of going the Mossadeq way.

Shrimati Tarkeshwari Sinha: May I know whether there is any proposal to appoint a sub-committee of the Cabinet to go into the question of prices of petrol?

Sardar Swaran Singh: I do not know what that committee is to which the hon. lady Member is referring, but I may say that all these questions are always before the Government and she should not have any parti-cular anxiety for a Cabinet sub-committee of one Minister or two Ministers or all Ministers to go into this problem.

Shri Sarmah: Was there any talk between the Government and the Assam Oil Company, and if so, what was the result?

Sardar Swaran Singh: There was a talk recently and the matter is still being pursued with the Assam Oil Company.

Shri Jaipal Singh: The hon. Minister has said that figures of the cost of production were not available. I want to know why. If he cannot give a reply, may I request the Government to say whether the cost of production of petrol per gallon has gone up from the 1928 figure of about an anna per gallon to whatever it is today? Let them find out the difference.

Shri Buragohain: The basis of the price which is internationally recognized as such, is there. There is hardly any use going into the cost structure. Whatever might be the cost, the price is based on the American Gulf price, as I said.

Shri Jaipal Singh: I want to know what the cost of production of B.O.C. and of the Assam Oil fields is.

Shri Buragohain: These figures are not available.

Shri Jaipal Singh: Why not? Are they not available to the Government of the country?

Mr. Deputy-Speaker: The hon. Member wants to know whether the Government have calculated it or not—whether they think it unnecessary or, whether the Government have no calculation at all.

Shri Buragohain: I might invite the attention of the hon. Member to the fact that we have taken up this question with the Assam Oil Company.

Dr. S. N. Sinha: May I know, Sir, to what extent the high cost of petrol has proved detrimental to road transport and brought about an increase in the number of unemployed?

Mr. Deputy-Speaker: We are going away from the question.

Shri C. D. Pande: May I point out that the price structure of petrol....

Mr. Deputy-Speaker: The hon. Member is not a Minister yet.

Shri C. D. Pande: I want to point out the fallacy of the argument of the Government.

Mr. Deputy-Speaker: You can only elicit answers.

Shri Sarangadhar Das: With reference to the reply that the American price is the basis for world prices, are we to understand that the prices for production in our fields in Assam will be dictated by American capital in the oil industry?

Shri Buragohain: The position is that now, the price is based on the American Gulf price. That is really the position, although it might be a position of helplessness.

श्री एम० एल० द्विवेदी : मीजूदा पेट्रोल में कितना प्रतिशत अलकोहल मिलाया जाता है और उस एलकोहल की कीमत भी क्या उसी तरह चार्ज की जाती है जिस तरह इम्पोर्टेड गैसोलिन पर चार्ज की जाती है ? ऐसा क्यों है ?

Shri Buragohain: I should like to have notice of that question, Sir.

Shri Punnoose: Sir, the Minister said that the cost of production is not known to the Government. May I know whether all the figures he has given of profits etc. and the arguments for keeping that price are being repeated from what information the Company has given and that Government has no independent knowledge of that?

Shri Buragohain: The Government have got in their possession the Profit and Loss Account of the Company and it is on that basis that I gave the information about profits.

Dr. M. M. Das: May I know whether it is a fact that the Iranian Oil Company has offered to sell petrol and kerosene at prices which are 50 per cent. of the present prices ruling in the country?

Shri Buragohain: I think I answered the question, Sir, some time ago in the last Session. I said that the National Iranian Oil Company did make an offer to the Government of India. But the position is that we do not import any oil on Government account. The import of oil is left to the trade and whatever our requirements are, we purchase from trade within the country. We explained the position.

Dr. M. M. Das: May I know whether it is the policy of the Government to purchase oil from private companies at double the price than the price which is offered to them if they buy on governmental basis?

Shri Buragohain: I may inform the hon. Member, Sir, that this concession that the Government in Iran announced was meant only for a few countries like Japan and the U.S.A. That offer was not meant to India as far as I know.

Pandit Thakur Das Bhargava: Is there no provision of law by which the Government can force these companies to tell the Government their cost of production, and, if there is none, are any steps being taken to amend the law?

Shri Buragohain: I do not think there will be any difficulty in the Government getting at the cost of production of the Assam Oil Company which is the only producer in the country. But, so far we have not gone into that aspect of the matter as we thought that with the position as it now stands, there is hardly any use in going into it because the basis is the American Gulf price.

Shri H. N. Mukerjee: In view of the profits made by the Assam Oil Company and the widespread allegations about its maltreatment of Indian employees, is it in the contemplation 380 P.S.D.

of Government to apply the Industries Act or to bring in special legislation for taking over the Company; if not, why not?

Mr. Deputy-Speaker: It is a suggestion for action.

Shri Syamaandan Sahaya: In view of the last answer which the hon. Minister gave, may I enquire whether it is the intention of the Government to keep themselves completely and continuously ignorant of the cost of production of goods in this country including the cost of petroleum?

Mr. Deputy-Speaker: I think we have had a sufficient number of questions. (Several Hon. Members rose—) Order, order.

Shri H. N. Mukerjee: Sir, if we get some time fixed for the formal discussion of this, it would be better.

Shri Sarmah: One more question, Sir, about discrimination.

Mr. Deputy-Speaker: Yes, Mr. Sarmah.

Shri Sarmah: Sir, with reference to the comment of the Air Transport Advisory Committee, 1950, that the Oil Combine discriminates against India, may I enquire, Sir, if it has ceased; and, if it has not, what steps the Government are taking for the purpose? I may say for the information of the hon. Minister that 100/130—Aviation fuel can be had at Calcutta at Rs. 1/9/3 whereas it is selling in Australia at 1/4/6 which is at a greater distance? I ask whether the discrimination has ceased; and, if not, what steps Government have taken?

Shri Buragohain: There is no question of discrimination. Sir, I have got here the figures for the various countries of the world about the retail prices of petrol. If the hon. Member wants I can give him the list.

Mr. Deputy-Speaker: His complaint is that at the place of production the cost is as high as it is at a place to which it is transported thousands of miles away.

The hon. Minister may take time to consider.

Shri H. N. Mukerjee: Sir, may I beg of you to fix a date when we can have a discussion on this matter. You may waive the necessity for a formal application.

Mr. Deputy-Speaker: It will not take much time for the hon. Member to give notice. He can go to the lobby and write the letter.

Shri H. N. Mukerjee: The difficulty is, Sir, that the Ministry may try to put spokes in the wheel. It is better that here and now a direction is given; it can be taken up later, and they will not have any say.

Mr. Deputy-Speaker: Hon. Members know how to get the Half-an-Hour discussion.

WRITTEN ANSWERS TO QUESTIONS

FOOD POLICY

*893. **Pandit M. B. Bhargava:** (a) Will the Minister of Food and Agriculture be pleased to state the policy in respect of the control of prices and movement of various kinds of foodgrains being pursued in the different States after the announcement of the policy by the Food Minister of the Government of India during the last Budget session of Parliament?

(b) Has there been a zonal grouping of the different States, wherein the restrictions on the movement of foodgrains have been totally removed?

(c) If so, in how many zones has the country been divided?

(d) How has this policy affected the general food situation in the country?

(e) Have the Government of India any proposal to make any change in the policy in light of experience gained?

(f) If so, in what respect is this change likely to take place?

The Minister of Food and Agriculture (Shri Kidwal): (a) Attention is invited to the two Statements placed on the Table of the House in reply to starred question No. 78 by Shri Dabhi on 4-8-53 wherein the extent of the implementation by each State of the general policy in regard to control over movement and prices of foodgrains has been detailed.

(b) No.

(c) to (f). Do not arise.

DAMAGES TO CROPS IN MANIPUR

*902. **Shri Bishang Kelsang:** Will the Minister of Food and Agriculture be pleased to state:

(a) whether it is a fact that extensive damages have been caused to paddy plants in many parts of the hill areas of Manipur by worms, insects and rats; and

(b) if so, what measures Government have adopted to check further damages and to render relief to the affected people?

The Minister of Food and Agriculture (Shri Kidwal): (a) The State Government had received reports of extensive damage to paddy crop by insects, locusts and rats in the Ukhrul area of the State. Investigation on the spot revealed that there was no damage to crops by insects etc. in terraced fields. Some damage was noticed in the Jhum areas (shifting cultivation on slopes of hills). This was not abnormal.

(b) Insecticides, raticides, and some dusters and sprayers have been kept at the Ukhrul Farm and necessary instructions have been issued by the State Government for immediate action as soon as necessary.

COMMITTEE FOR STUDY OF DEPTHS AT PORTS

*903. **Shri Raghubunath Singh:** (a) Will the Minister of Transport be pleased to state whether the Central Government have appointed a National Committee for study of depths at ports?

(b) If so, has the Committee submitted any report?

The Deputy Minister of Railways and Transport (Shri Alagesan):

(a) The question of constituting a Committee is still under consideration.

(b) Does not arise.

TUBE WELLS IN U. P.

***904. Shri M. L. Agrawal:** (a) Will the Minister of Food and Agriculture be pleased to state whether it is a fact that with a view to provide adequate irrigation facilities to the Eastern Districts of Uttar Pradesh the construction of 2,000 tube wells has been provided in the First Five Year Plan?

(b) Is it a fact that out of 2,000 wells, the construction of 465 tube wells cannot be taken up and completed within the Plan period, unless necessary orders of Government for starting the work on these wells are received during the current financial year and the necessary funds made available?

(c) Have Government received a representation in this behalf from the Uttar Pradesh Government?

(d) What action do Government propose to take in the matter so that the Plan Programme of providing 2,000 tube wells for the scarcity affected Eastern Region of Uttar Pradesh may be completed during the First Five Year Plan period?

The Minister of Food and Agriculture (Shri Kidwai): (a) The Five Year Plan of U.P. originally provided for the construction of only 1,000 tube-wells. But on subsequent representation of the U.P. Government the number was increased to 2,000 tube-wells subject to T.C.A. assistance being made available.

(b) Yes.

(c) No.

(d) Programme for the construction of 1275 tube-wells under the T.C.A. projects and of 260 tube-wells under the State scheme has already

been approved by the Government of India and it is scheduled to be completed within the period of the Five Year Plan. The construction of the remaining 465 tube-wells will depend upon further programmes being taken up under foreign aid during the present Plan period.

AMMONIUM SULPHATE

***905. Shri Rajagopala Rao:** (a) Will the Minister of Food and Agriculture be pleased to state the total quantity of ammonium sulphate supplied from the Central Fertilizer pool to the State of Madras during the year 1953?

(b) Did the State Government disclose any balance of the previous year's allotment?

(c) What was the total stock of the ammonium sulphate with the State Government on the 1st August, 1953?

(d) What is the cost of the ammonium sulphate?

The Minister of Food and Agriculture (Shri Kidwai): (a) 14,000 tons upto 21-8-1953.

(b) Yes—1,06,727 tons.

(c) 65,896 tons.

(d) It varies from place to place within the range of Rs. 335/- per ton at Madras Port and Rs. 380/8/- to Rs. 398/- per ton at distant places in the State.

SUPPLY OF FOODGRAINS TO MADRAS

***906. Shri Rajagopala Rao:** (a) Will the Minister of Food and Agriculture be pleased to state the total quantity of wheat and paddy supplied to the Government of Madras from the Central Pool during the year 1953?

(b) What is its cost?

(c) What is the stock of the two kinds of foodgrains with the State Government on the 1st August, 1953?

(d) What is its cost?

The Minister of Food and Agriculture (Shri Kidwai): (a) The total

quantities of wheat and rice allotted to Madras so far during the year, 1953, are 62,000 tons and 157,000 tons respectively.

(b) and (d). Information is being collected from Madras State and will be placed on the Table of the House, as soon as it is available.

(c) 12,800 tons wheat and 202,200 tons rice.

WAGE STRUCTURE OF COAL-MINE WORKERS

*908. **Shri Vittal Rao:** Will the Minister of Labour be pleased to state whether the Board to go into the question of wage structure of the workers of coal-mines, has been appointed by the Central Government?

The Deputy Minister of Labour (Shri Abid Ali): Government will shortly be setting up an Industrial Tribunal for adjudication of a number of disputes in the coalfields. One of the issues to be adjudicated on will be the wage structure in coal mines.

RAILWAY LINE IN MADHYA PRADESH

*909. **Shri Damar:** Will the Minister of Railways be pleased to state:

(a) whether Government propose to construct a new railway line in the Adivasi area of Madhya Bharat;

(b) if so, the probable time when the work is to be started;

(c) the names of the particular districts, tehsils and stations through which the railway line will be constructed; and

(d) whether the survey of this line has been completed last year or is to be made this year?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shah Nawaz Khan): (a) Not for the present.

(b) and (c). Do not arise.

(d) Reconnaissance survey for a line between Indore and Dohad has been sanctioned and the report is awaited.

KEY FARM CENTRES

486. **Shri Dabhi:** Will the Minister of Food and Agriculture be pleased to state:

(a) the number of Key Farm Centres in Bombay State and the places where they are located;

(b) the number and kinds of cattle kept in each of these centres; and

(c) the source or sources from which the expenditure of these Centres is met?

The Minister of Food and Agriculture (Shri Kidwai): (a) to (c). A statement containing the required information is attached. [See Appendix IV, annexure No. 45.]

SOCIAL GUIDES

487. **Shri Dhustiya:** (a) Will the Minister of Railways be pleased to state the number of social guides at various railway stations employed in the Northern and North Eastern Railways?

(b) How many of them belong to the Scheduled Castes?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) The following is a statement of the number of Social Guides employed at various stations on the Northern and North Eastern Railways:—

Northern Railway.

1. Delhi	4
2. Ambala Cantt	2
3. Saharanpur	2
4. Amritsar	2
5. Jullundur City	2
6. Ludhiana	2
7. Allahabad	1
8. Kanpur	1
9. Tundla	2
10. Lucknow	1
11. Banaras Cantt	3
12. Hardwar	2
13. Bareilly	1

TOTAL 25

North Eastern Railway.

1. Allahabad	1
2. Samastipur	3
3. Darbhanga	2
4. Muzaffarpur	3
5. Sonapur	3
6. Gorakhpur	3
7. Gonda	2
8. Bareilly City	2
9. Lucknow	2
10. Banaras	2
11. Maniharighat	2
12. Katihar	1
13. Badarpur	2
14. Tinsukia	2

TOTAL	30
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(b) None.

IMPORT OF FOODGRAINS

483. Pandit M. B. Bhargava: Will the Minister of Food and Agriculture be pleased to state the quantity and value of foodgrains imported into India since January, 1953?

The Minister of Food and Agriculture (Shri Kidwai): During January to July, 1953, a total quantity of about 15.67 lakh tons of various grains valued at about rupees 69 crores was imported from abroad.

NATIONAL HIGHWAYS

489. Shri K. P. Tripathi: Will the Minister of Transport be pleased to state the State-wise mileage of cement concrete and asphalted roads known as National Highways falling in different States of India?

The Deputy Minister of Railways and Transport (Shri Alagesan): A statement giving the required information is placed on the Table of the House. [See Appendix IV, annexure No. 46.]

CLAIMS DUE TO RIOTS AT BEZWADA

490. Dr. Amin: Will the Minister of Railways be pleased to state:

(a) the number of claims received by the Railway Authorities of the Southern Railways in respect of consignments lost due to riots at Bezwada on or about 16th December, 1952 showing the total amount involved;

(b) the number of claims entertained and settled showing the total amount paid as compensation for such losses;

(c) the number and total amount of claims rejected; and

(d) the number of such claims under consideration and the amount involved?

The Deputy Minister of Railways and Transport (Shri Alagesan):

(a) Number of claims received was 2044. Amounts involved were specified in 1083 cases only and totalled Rs. 11,37,657/-.

(b) 12 claims for Rs. 5,413/-.

(c) 1886 claims were rejected. Amounts involved were specified in 997 cases only, their total value being Rs. 10,93,471/-.

(d) 146 claims are still under consideration. Amounts involved have been specified in 74 cases only, their total value being Rs. 38,773/-.

PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

3771

1772

HOUSE OF THE PEOPLE

Friday, 28th August, 1953

*The House met at a Quarter Past
Eight of the Clock*

[MR. DEPUTY-SPEAKER in the Chair].

QUESTIONS AND ANSWERS

(See Part I)

9-47 A.M.

MESSAGES FROM THE COUNCIL
OF STATES

Secretary: Sir, I have to report the following two messages received from the Secretary of the Council of States:

(1) "In accordance with the provisions of rule 125 of the Rules of Procedure and Conduct of Business in the Council of States, I am directed to inform the House of the People that the Council of States, at its sitting held on the 26th August, 1953, agreed without any amendment to the Central Silk Board (Amendment) Bill, 1952, which was passed by the House of the People at its sitting held on the 5th August, 1953"

(2) "In accordance with the provisions of rule 125 of the Rules of Procedure and Conduct of Business in the Council of States, I am directed to inform the House of the People that the Council of States, at its sitting

held on the 27th August, 1953, agreed without any amendment to the Collection of Statistics Bill, 1952, which was passed by the House of the People at its sitting held on the 6th August, 1953".

PAPERS LAID ON THE TABLE

AGREEMENTS re OIL REFINERIES IN INDIA

The Minister of Production (Shri K. C. Reddy): I beg to lay on the Table copies of the agreements arrived at between the Government of India and certain oil companies for the establishment of oil refineries in India.—[See Appendix IV, annexure No. 7.]

ESTATE DUTY BILL.—contd.

Mr. Deputy-Speaker: The House will now proceed with the further consideration of the Estate Duty Bill. Clause 2 and amendments were under consideration.

I understood the hon. Finance Minister wanted to explain a particular amendment that was moved yesterday.

The Minister of Finance (Shri C. D. Deshmukh): I have explained it already and Shri Bhagat has given notice of the amendment. It has been circulated as desired by you. If you can allow him to move it, then, perhaps the debate can proceed and very much discussion may not be necessary.

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): I beg to move:

In page 2, after line 46, insert:

“(16A) “public charitable purpose” includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include any purpose which is expressed to be for the benefit of any particular religious community;

Explanation: A purpose which is expressed to be for the benefit of scheduled castes, backward classes, scheduled tribes or of women and children shall not be deemed to be for the benefit of a particular religious community within the meaning of this clause.”

Shri Dhulekar (Jhansi Distt.—South): I rise to a point of order.

An Hon. Member: It has not been put before the House.

Mr. Deputy-Speaker: When a point of order is raised every other thing will be suspended.

Shri Dhulekar: Sir, my point of order is this. Here, the words

“but does not include any purpose which is expressed to be for the benefit of any particular religious community;”

are *ultra vires* and against the spirit of the Constitution. I shall refer to the Article of the Constitution. Sir, in the chapter of Fundamental Rights, it is said that all persons are equally entitled to freedom of conscience and the right to profess, practice and propagate religion. In Article 25 (2), it is said:

“Nothing in this article shall affect the operation of any exist-

ing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.”

So, I submit, Sir, that it is against the main principle of law. I shall put the case in this manner.

Now, under this ‘for the benefit of a particular religious community’, I shall take the broadest view and say that a person makes a gift of one crore of rupees out of which he says that 30 lakhs will be reserved for the benefit of a religious community called the Parsis, 20 lakhs for the Muhammadans and the rest for the Hindus. I say this portion of the amendment will go against it. Read the Estate Duty Rates Bill also with this. The most tolerant man who makes the gift dies a few days after. The rates are how much? Calculated for one crore of rupees, the duty will be about 47 lakhs of rupees. Calculated according to these rates a very large portion of the property, about Rs. 46 lakhs will be taken out of the fund.

Mr. Deputy-Speaker: The Hon. Member who raises a point of order should simply state the point and not go on illustrating.

Shri Gadgil (Poona Central): He is not talking on the point of order, but on something else.

Shri Dhulekar: I am a lawyer, you should know that.

My point is this. By this provision you are defeating the purpose of the Constitution. The Constitution provides for the freedom of practising ones religion. Suppose I leave one

crore of rupees for the construction of a temple. If out of it Rs. 46 lakhs are to be paid to Government, the idea of building a temple will never fructify.

Mr. Deputy-Speaker: Does the hon. Member mean to say that it is a question of discrimination. What is his exact complaint, I am not able to follow. Does he mean to say that notwithstanding the fact that freedom of worship is given in the Articles of the Constitution, a particular provision of this kind is of a discriminatory nature? Am I to understand him that way?

Shri Dhulekar: No, Sir. My submission is this. I raise this point of order from this point of view. When you make a law, you cannot defeat the object of the Constitution by making a provision which will harm persons for whom freedom is guaranteed under the Constitution.

My point is this: if you take out a large corpus of the property out of the funds bequeathed or gifted by a person, then you defeat the very object of giving him freedom under the Constitution. That is my submission.

Shri C. D. Deshmukh: Sir, what we are trying to do here is to give special concession to certain kinds of public charitable purposes. Otherwise all gifts have to be two years prior to the death. Here we say, if gifts are of certain kinds then we will admit them between that period of two years and six months. Therefore, there is no discrimination against religion. It is discrimination, so to speak, in favour of certain charitable purposes which we define. If there is any kind of surrender of potential revenue it is in respect of certain categories of public charitable purposes. That is all we are trying to define here. I cannot see that anything in the language of Article 25 comes in the way of this. Everybody is free to worship as he likes; we are not restricting it by this. We cannot restrict the freedom of worship of any religious community.

Shri Gadgil: Might a building by-law be considered as something against the spirit of the Constitution if it lays down that a temple must be built according to a particular pattern? This provision is something like that. Nobody is prevented from practising, professing or propagating his religion. But if he wants to make a gift and seeks some immunity, the thing must come within the definition as proposed, not otherwise.

Shri S. S. More (Sholapur): I would refer you to the preamble of the Constitution regarding equality of status and opportunity. All the communities, irrespective of their religion, will have equal status and opportunity. This part of the preamble governs all the fundamental clauses. If at all the Finance Minister is making any discrimination, it is in favour of gifts for charitable purposes. If we divide gifts into two categories, gifts for non-charitable purposes and gifts for charitable purposes, then he is making a special concession or special discrimination in favour of charitable purposes.

10 A.M.

Mr. Deputy-Speaker: The hon Member evidently means whether it would not be discouraging the object?

Shri S. S. More: We are not concerned with discouragement or encouragement of particular objectives. As far as the Estate Duty Bill is concerned certain gifts have been visualised and certain concessions have been given. For instance in the case of a gift to a son two year period is prescribed. While in the case of gift to a charitable objective, six months has been prescribed. It is discrimination, if at all an undesirable discrimination, in favour of charitable gifts.

Mr. Deputy-Speaker: Why was not this thought of when the Bill was before the Select Committee?

Shri C. D. Deshmukh: Why anything was not thought of is difficult to answer. These words are contained

[Shri C. D. Deshmukh]

in the Income-tax Act which we passed last session. I might as well ask the question why anyone should not have raised the same point of order at that time.

Therefore, I say that if a point strikes someone, then only does he bring it forward. I do not blame the hon. Member for raising the point of order now instead of at the last session when similar words were incorporated in the amendment to the Income-tax Act.

Shri V. G. Deshpande (Guna): I did raise it then.

Mr. Deputy-Speaker: What are the words in the Income-tax Act?

Shri C. D. Deshmukh: The same: "which is expressed to be for the benefit of any particular religious community."

Shri Dhulekar: The analogy between the Income-tax Act and this Act is not correct. Income-tax is taken out of a running current; here you take out of the whole body of the corpus. The difference is that a man is running a business, he goes on; you can take every day one hundred per cent. from a running stream. Suppose there is a tank and you take 40 per cent. out of it; it will become empty. There is no analogy between the two Acts.

Shri N. C. Chatterjee (Hooghly): If you are pleased to look to clause 9 of the Bill, as it emerged from the Select Committee, you will find that it provides that certain gifts *bona fide* made two years or more before the death of the deceased shall not be deemed to pass on the donor's death; that is, they will not come within the ambit of the estate duty. Then we realised that some provision should be made for gifts for public charitable purposes. But we were contending that there should be no time-limit at all. If make a public charitable gift to the University of Delhi and if

I die within one month after the date of that gift, then that should not be brought within the taxation measure. Now the question was whether there should be no time-limit or whether there should be a time-limit and the Select Committee ultimately approved that six months should be the time-limit in the case of gifts made for public charitable purposes.

All that happened thereafter was to clarify, if necessary, what is 'public charitable purpose'. In the Income-tax Act, as has been clearly elucidated by the Privy Council, by the Law Lords and different High Courts, we know what is 'public charitable trust'. I would refer you to page 320 of Sir Jamshedji Kanga's "Law and Practice of Income-tax" he says:

"It is not necessary that the object should be to benefit the whole of mankind or all the persons living in a particular country or province. It is sufficient if the intention is to benefit a sufficient large section of the public as distinguished from specified individuals."

Then you may remember the leading case, the Trustees of the Tribune case, where the Lahore High Court gave a majority judgment but Sir Tekchand delivered a dissenting judgment. The Privy Council accepted as correct the dissenting judgment of Sir Tekchand and held that "the spreading of news among the English-speaking public of the Punjab was an object of general public utility. A trust is nonetheless a trust of a public character if its main object is to benefit only Hindu women, or a certain sect... etc."

In order to make it clear the Finance Minister has put in an amendment which you have seen (No. 465 in List No. 11), where he says:

In page 2, after line 46, insert,—

'(16A) "public charitable purposes" means relief of the poor,

education, medical relief and advancement of any other object of general public utility....'

If you stop there it is exactly in terms of the Indian Income-tax Act and in conformity with what is known in India as 'public charitable purpose' and what has been laid down by the highest judicial tribunals. But he adds something. He says:

.....but does not include a purpose which relates exclusively to religious teaching or worship'.

This has been taken from the Charitable Endowments Act. If you accept Mr. Bhagat's amendment No. 578 in List 16, which seeks to include the words "but does not include any purpose which is expressed to be for the benefit of any particular religious community", it will lead to discrimination, and it will lead to an infringement of one guaranteed freedom namely the right to equality. The judgment of the Patna High Court in the Bihar Land Reforms Case still stands. It was contended before the learned judges that you really make a discrimination by paying less compensation to a certain class and more compensation to another; that is discrimination. That judgment still stands. The judgment has been reversed by the Supreme Court not because the judgment on its merits was wrong but because the Constitution was amended in order to negative that judgment. But the interpretation of article 14 still stands and it says if you make a conscious discrimination between different classes it comes within the ambit of this Article 14. The amendment of Mr. Bhagat (No. 578) which says that 'public charitable purpose' includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include any purpose which is expressed to be for the benefit of any particular religious community, is repugnant to article 14. This portion ought not to be there. What is the

good of saying we are thinking of exemption now? We are defining 'public charitable purpose'. Suppose in a predominantly Hindu town a Hindu makes a gift of two lakhs of rupees two months before he dies and says "it should go to the Hindus". Why should you say that it should not have any exemption? It is not proper. Suppose in a predominantly Muslim town two months before he dies and says it should be given to the Muslims, that will be a perfectly valid public charitable trust, under all connotations, according to the Tribune and Charusila Dasi's cases and other judgments.

When you are defining 'public charitable purpose' you should not penalise gifts. You are not making it illegal. But when you are taking away the exemption I ask the House to consider whether it is fair. Suppose some Assamese gentleman in Assam finds that the Muslim community is backward and says 'I am making a donation for Muslim students' that will be hit by this Explanation given in amendment No. 578 which says:

"A purpose which is expressed to be for the benefit of scheduled castes, backward classes, scheduled tribes or of women and children shall not be deemed to be for the benefit of a particular religious community within the meaning of this clause".

This mitigates the hardship to some extent, but why does it narrow it down to Harijans, women and children?

Shri R. K. Chaudhury (Gauhati). Because they belong to the same class!

Shri N. C. Chatterjee: I am thinking for instance of the Governor of my Province. Dr. H. K. Mookerjee. He had been making generous donations for the Christian community in Bengal. And I submit that it is a perfectly valid public charitable purpose because that gentleman, generously disposed, has done it for the

[Shri N. C. Chatterjee]

good of his community. But if he dies within the stipulated period of six months it will be assessable. I do not think it is fair. It certainly infringes the spirit, if not the letter, of the Constitution, and you should not enlarge the accepted connotation of what is known in law and is accepted as 'public charitable trust' according to decisions.

In England I find that on this very point a Committee was appointed and that Committee reported in December 1952.

It was known as the Committee on the Law and Practice relating to Charitable Trusts. Do not try to be too secular and too punctilious in this matter. I shall read only a line or two from that Report. They start by saying:

"Historically, it is the religious motive which has been primarily responsible for widening the bounds of good neighbourliness and the obligation to meet human need. Though frequently neglected in practice, such tenets lay at the heart of the more ethical religious of the past, as well as of the great living religious of today."

Then they refer to Judaism, Christianity, Islam, Buddhism and Hinduism and say "these are deeply unbued with a sense of the oneness of mankind". They have not penalised it. In England if this kind of gift is made it becomes a good and valid gift for 'public charitable purpose'. There should be no discrimination made in India.

Shri Venkataraman (Tanjore): I want to say a few words on this. So far as the point of order raised by the hon. Member is concerned, I would submit that there is no restriction whatsoever either in professing or practising any religion, in this clause. All it says is that your charitable endowments should not be confined to one particular community. It

does not put a restriction on professing or practising any religion.

So far as the point raised by the hon. Member Mr. Chatterjee is concerned, I would submit that we as lawyers have a habit of looking to precedent. We want to look forward in the future India, after the Constitution, we do not want to have any restriction in respect of communities. We do not want to think in terms of any charities for any religion, any class, and all that kind of thing. If any person is going to do some charitable thing, let him do it for the whole of the community, the people of India. Let him not confine it to any particular individual or set of individuals. (*Interruption*). I feel strongly about it. If it is a charitable purpose let it be for the whole of the people of India and not for a few limited individuals.

Shri Barman (North Bengal—Reserved—Sch. Castes): May I submit a word, Sir?

Mr. Deputy-Speaker: On the point of order?

Shri Barman: Yes. As I read articles 25 of the Constitution, it says: "Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience, etc..." The stress is that all persons are equally entitled. The Constitution says that the State cannot make any discrimination between one person and another in the matter of certain things; that is, a restriction on the State. The rest of it is rather enabling the State in certain circumstances to deviate from it. I do not find that there is any restriction put by the Constitution against making any such law.

Pandit Thakur Das Bhargava (Gurgaon): May I say a word, Sir, on the point of order? Objection has been taken that this provision will offend against article 25, that is to say, that

the present provision will not allow some persons to have freedom of conscience or the right to freely profess, practice and propagate religion. This is the simple point before the House. The other points will be dealt with on merits: whether this exemption should be allowed or not. The only point before the House is whether article 25 of the Constitution is a bar to our having this provision. I humbly submit that article 25 has nothing to do with this provision. May I humbly enquire from the gentleman who has raised this point of order how the freedom of conscience of any person will be affected by this provision? How will he be debarred from professing any religion? Will the matter of not making gifts to any religious purposes prevent the person from practising that religion or professing that religion or even propagating that religion? It may be argued that because the exemption will not be there, in regard to these gifts, the Estate of that person will have to pay something in respect of gifts made for a certain class of persons or a certain religious community. If you kindly look at article 19, it says:

"All citizens shall have the right...to acquire, hold and dispose of property."

All the same, the Finance Minister is too strict and he takes taxes from us every day. According to the law, every person has the right to hold property. But, yet, the legislature and the Government charge a tax from him. It is a question of taxation more or less. It is not a question of practising or propagating religion. If for secular purposes the people are bound to pay according to the law of the country, I do not see how freedom of religion is interfered with. What will happen is this. A certain property is taxable in a certain contingency. Does the mere fact that you want to make a law which taxes the property, debar one from freedom of conscience, religion, etc.? I am not going into the other question whether, as propounded by Mr. Chatterjee, the gifts should

have this restriction or not. That would be dealt with on merits. So far as this point of order is concerned, I fail to see how possibly this article could be invoked to say that it interferes with our right to make a law of this nature. We have made a law of this nature in regard to the Income-tax Act also. There also, these questions were discussed, whether this goes against the Constitution or not. We have already accepted this principle. There is no reason how this article 25 could be invoked for this purpose. Article 25 has got nothing to do with the right of the State to tax any property because the cases that are covered by article 25 are not at all affected by the policy of taxation.

Shri U. M. Trivedi (Chittor): May I be permitted to say a few words, Sir? Very strong language has been used repeatedly by my hon. friend Pandit Thakur Das Bhargava that article 25 has nothing to do with the point of order that has been raised. I very emphatically say that article 25 is attracted by this amendment which is now being brought. The position is this. If you read article 25, you do not stop with freedom of conscience. We go further and read, "freely to profess, practise and propagate religion". Propagating religion means teaching of religion also. You are putting a complete embargo on making gifts for the teaching of a religion.

Sari Venkataraman: You pay the tax and propagate.

Shri U. M. Trivedi: That is why I say, you are not allowing me freely to propagate. You put in a restriction in the way of my freely propagating. You cannot put any restriction on his ideas of propagating religion.

Pandit Thakur Das Bhargava: My submission is propagating religious education freely is not prohibited.

Shri U. M. Trivedi: We have got so many missions in the whole of the country. We have got Christian missionaries, we have got Hindu mis-

[Shri U. M. Trivedi]

sionaries in the shape of Ramakrishna Mission, Ramakrishna Mission hospitals and Vivekananda mission etc. We make gifts to these with a great desire that our religion should be propagated and that our religious teaching should be imparted. But, we are trying to bring in this new definition of public charitable purposes, an entirely innovated definition that has not found favour anywhere in the international interpretation of the words, public charitable purpose. By that definition you are trying to put a restriction on a man's exercise of the right that has been given: that is the right to profess, practise and propagate religion. You are taking away 40 per cent. of whatever he wants to give. In what manner you can bring in public order, morality and health, to be interfered with by these charities I fail to understand.

Shri Gadgil: May I ask Mr. Trivedi one question? Suppose the State Governments levy a sales tax on your publications for religious propaganda. Will it mean that your freedom is interfered with?

Shri Dhulekar: Again, the analogy is wrong. It will be a running tax.

Shri V. G. Deshpande: It will be a discrimination...

Mr. Deputy-Speaker: Order, order. Would this stand in any way different from an ordinary gift if it is made more than 2 years before death? Assuming that this definition is quite in order and this gift is for a particular religious community, if it is before 2 years of death, it comes as an ordinary gift and it will be exempted. The only point is that it would not partake of the category of the exemptions granted to public charitable gifts if it is within six months. That is the only difference.

Shri T. S. A. Chettiar (Tiruppur): May I submit, Sir, if you are just asking for the clarification before you

give your ruling, I want to know whether gifts for charitable purposes made before two years would not come within the mischief of section 9 under this definition.

Mr. Deputy-Speaker: Would it be in a less favourable position than ordinary gifts?

Shri T. S. A. Chettiar: If you want a clarification, I think it is better that we discuss the implications of the amendment itself before you give your ruling. I would like to ask for clarification on two matters.

Mr. Deputy-Speaker: I would like to hear the hon. Finance Minister.

Shri T. S. A. Chettiar: Will you please hear me, Sir? I would like to ask for definite information on this question. A makes a gift of one lakh of rupees out of which a sum of rupees 10,000 is given for a religious purpose. It includes a benefit for a particular religious community. I want to know whether under this section the whole gift will be vitiated because of the gift or only that part?

Shri Gadgil: The doctrine of severality will apply. If the one gift could be separated from the other...

Shri T. S. A. Chettiar: Please wait before you reply. There is another point also. The question is whether it will vitiate the whole gift or only that portion of that gift. That is one point. The other point is, a man makes a gift for a religious purpose, say, 10 years ago. I am putting the same question as you did. Even if it is made 10 years ago, it must come under clause 9 as now defined to get the benefit of clause 9. It does not get the benefit of section 9 under this definition even if it was made 10 years ago.

The Deputy Minister of Finance (Shri M. C. Shah): Any gift made before two years whether charitable or not is covered.

Mr. Deputy-Speaker: We are only on the question of the point of order.

Shri T. S. A. Chettiar: For deciding your point of order, these things are necessary to be considered.

Mr. Deputy-Speaker: Any other point?

Shri T. S. A. Chettiar: The whole question seems to be...

Shri C. D. Deshmukh: In Clause 9 it is quite clear that if it is made two years before death, it may be of any kind. We are not concerned with whether it is for a religious purpose or religious worship or anything. All that I say is that for certain gifts we are shortening that period. That is to say, we are giving a special concession. Now, that we liked to define as public or charitable purpose. Then we veered round to "public charitable purpose". We are trying to define what it is. As I submitted before, it is open to us to say how narrow it would be or how wide it would be. Whether on merits it would be right or wrong can be debated later.

So far as the point of order is concerned, by "public charitable purpose" was only meant the construction of public parks. Nobody can say that that is discrimination against anything. Also as effectively it will exclude gifts for religion or any other purpose—women, education, health, everything, excepting, of course, health, so far as the free open air in the park is concerned. But it is open to us in the Legislature to make this exemption as narrow or as wide. But we could not say, for instance, we shall only exempt gifts for the Parsis or Muslims, because that would be an exemption in favour of a community. All that we say is that when we describe the category which should be entitled to this benefit, it shall not be definable by virtue of religion. If it is a park, it should be open to all communities. If it is a swimming bath, it should not be like the Mafatlal Swimming Bath in Bombay, but like some other bath, like the Cricket Club, a bath which is open to everybody.

An Hon. Member: It is open only to Members.

Shri C. D. Deshmukh: Well, it is open to Members. That is another matter. It is a private thing. But that is the point. That is to say all that we are saying is it should be public in the sense in which we understand "public" in the country today. One may quarrel with the definition of "public", but by no stretch of the imagination, I submit, it offends against Article 25 or against any other Article.

Mr. Deputy-Speaker: May I ask one more thing? The Explanation of Mr. Bhagat's amendment says:

"... scheduled tribes, or of women and children shall not ..."

Does it mean women and children in general terms, of women and children of any community?

Shri C. D. Deshmukh: That is so. Even if it is for a religious community, if it is for women and children, then it will be permitted.

Mr. Deputy-Speaker: That is, all women and children of any particular community.

Shri C. D. Deshmukh: Yes. That was the point that was raised by the hon. Member Shri Chatterjee in the debate—in a similar debate—on the Income-tax Amendment Bill. And he said: "Supposing someone wants to leave something for Hindu widows, will you exclude it?" Then, my heart was touched, and I said "No, it should not be". I said, therefore, women and children should be exempted.

Mr. Deputy-Speaker: I think the hon. Finance Minister will consider the desirability of making it clearer, coming as it does in the Explanation which is after all a general exclusion. In the earlier portion of the Amendment it is said:

"... any purpose which is expressed to be for the benefit of any particular religious community".

[Mr. Deputy-Speaker]

It is necessary to make this clearer, otherwise it would mean all women in general in the whole of India, as Mr. Venkataraman says.

Shri C. D. Deshmukh: The Explanation is really by way of an excision to this which is expressed to be for the benefit of any particular religious community. That is to say, the generality of that provision is sought to be restricted by the Explanation. The Explanation excises something from that. Therefore, certain things, though they are expressed for the benefit of a religious community, will be permissible by virtue of that explanation.

Mr. Deputy-Speaker: Why do we not make it clearer, because women as a whole are only a section of the community. Children as a whole are a section of the community. Therefore, let us see if it can be made clearer.

Now, a point of order has been raised in regard to the admissibility of the amendment proposed by Shri B. R. Bhagat, Amendment No. 578, in that the definition of "public charitable purpose" as proposed, particular benefits or gifts made to any particular religious community is sought to be excluded. This is said to militate against Article 14 of the Constitution, as also Article 25. Article 14 reads as follows:

"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

It is true, as Mr. Chatterjee read out from the Privy Council decision, that gifts for even a particular religious community is a public charitable purpose. Therefore, but for this definition, public charitable purpose will include any benefit or gift made to any particular religious community also.

The point that has now been raised is, whether any restriction can be imposed notwithstanding the fact that a gift to a particular religious community, as opposed to a benefit for the general community as a whole, is for a

public charitable purpose. A reference is made to a similar provision in the Indian Income-tax Act. When was that passed?

Shri C. D. Deshmukh: Last session.

Mr. Deputy-Speaker: Last session. That is, after the Constitution was framed.

Shri Gadgil: In the presence of Shri Dhulekar.

Pandit Thakur Das Bhargava: This restriction will apply to all men in India, to any person who makes a gift, —Hindu, Muslim, Parsi or anybody. Therefore, there is equality, and not inequality.

Mr. Deputy-Speaker: This, no doubt, does not make any difference as between persons who want to make any gift to any particular religious communities, but the objection that has been raised is that if a man is not allowed to make a gift to a particular religious community notwithstanding the fact that under the law it has been interpreted that a gift to a particular religious community is a public purpose, then his freedom to make a gift is restricted.

Shri C. D. Deshmukh: He is allowed to make a gift, but he will have to pay the tax.

Mr. Deputy-Speaker: It is looked upon, so far as this particular provision is concerned, with disfavour. Whereas a concession is shown to other objects, of public charity, the concession is not given to this particular portion.

Shri C. D. Deshmukh: That is right.

Mr. Deputy-Speaker: Whether that amounts to a discrimination or not is the point that has been raised here. I feel that it would not be right for me to decide this matter, particularly because a similar provision has already been incorporated in the Indian Income-tax Amendment Act. This matter may be taken into consideration, and may be disposed of on the merits, and

the House may come to any conclusion it likes to come on this particular matter. The amendment has been moved by Mr. Bhagat.

Shri S. V. Ramaswamy (Salem)
rose—

Mr. Deputy-Speaker: Order, order. The hon. Member should not stand up when I am standing. I will give him an opportunity.

Shri S. V. Ramaswamy: It is on this point.

Mr. Deputy-Speaker: What if on this point? When I am standing what is the meaning of quarrelling?

I would only urge upon the Finance Minister to consider—no doubt, the Explanation should be read along with the previous definition—the words “notwithstanding the fact that the women and children belong to any particular religious community” should not be added. He may consider that matter.

Shri Gadgil: Not necessary.

Shri S. V. Ramaswamy: Would you ask the Attorney-General to explain the position to the House?

Mr. Deputy-Speaker: I am not going to be guided. I leave it to the House. The House has got sufficient good sense.

Shri K. K. Basu (Diamond Harbour): Yesterday, when we were discussing this amendment of Mr. More on this particular subject, it was said that it was drafted saying “if it is exclusively or predominately for religious purpose”. Now this amendment is sought to be moved by Mr. Bhagat in substitution, and it says:

“... but does not include any purpose which is expressed to be for the benefit of any particular religious community”.

I have only to ask one question. Take the case of the Ramakrishna Mission which is usually run by the Hindus. Along with this religious institution, there are hospitals and schools wherein

anybody, irrespective of the community he belongs to, can participate and get the benefit. I want to know whether that will be affected by this particular provision. What is the intention? It was said that “predominately or exclusively” means, supposing an institution were not only for worship, but for other purposes also like education, hospital etc., we can differentiate. As it is drafted now, I am doubtful whether the whole thing will come in? Though all Indians, irrespective of their community will benefit by such an institution, but because it is run by a particular community and religious teaching is imparted, will it be affected? I do not know what the position is about the Gurukul University, whether only Hindus are allowed. If other communities are also allowed, but the institution is run in a fashion which comes under the pattern of a Hindu religious community, I would like to know whether such an institution will be wholly exempted. Yesterday in the hon. Finance Minister's amendment, the words used were ‘exclusively to’, and in another amendment the words used were ‘predominantly for’. Now we have made a change. I would like to know what will be the position.

Shri Barman: I have got an amendment to this amendment. I beg to move.

In the amendment proposed by Shri B. R. Bhagat, omit ‘expressed to be’ occurring for the first time.

Shri R. K. Chaudhury: On a point of order, Sir. I would like to know whether the amendment of the hon. Finance Minister moved yesterday is still before the House, or only the amendment which is to be substituted in its place. Let us be clear on that point. Are we discussing all the amendments which are before the House, and which were moved yesterday, and also Mr. Bhagat's amendment, or only Mr. Bhagat's amendment?

Shri C. D. Deshmukh: Mr. Bhagat's amendment replaces my amendment. Mine is not withdrawn I cannot withdraw it at this stage.

Mr. Deputy-Speaker: Mr. Deshmukh had moved his amendment yesterday. Mr. Bhagat has moved his amendment today. It is for the House to accept the one or the other. If the one is passed, the other is automatically negated.

Shri V. P. Nayar (Chirayinkil): Are both these amendments Government amendments?

Shri R. K. Chaudhury: Let the hon. Finance Minister withdraw his amendment then. There is no point in wasting time over both.

Mr. Deputy-Speaker: I shall now place Mr. Bhagat's amendment before the House. Amendment moved:

In page 2, after line 46, insert:

'(16A) "public charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include any purpose which is expressed to be for the benefit of any particular religious community;

Explanation.—A purpose which is expressed to be for the benefit of scheduled castes, backward classes, scheduled tribes or of women and children shall not be deemed to be for the benefit of a particular religious community within the meaning of this clause.'

Now there is an amendment to this amendment, which has been moved by Mr. Barman. If this is accepted, then Mr. Bhagat's amendment will read:

".....but does not include any purpose which is for the benefit of any particular religious community."

That means, even impliedly it can be for the benefit of any particular religious community.

Shri C. D. Deshmukh: It may be expressed to be for something else.

Mr. Deputy-Speaker: Whether it is expressed or not, if it has got a remote possibility of advancing the benefit

of any particular religious community, then this provision is attracted. Such amendments should have been given earlier.

Shri Barman: I gave it only this morning.

Shri Dhulekar: Mr. Bhagat's amendment has been given to us only today. So I also want to move an amendment to this.

Mr. Deputy-Speaker: Mr. Bhagat's amendment was given notice of and circulated only last night. Therefore I am prepared to allow amendments to that amendment, on the floor of the House.

Shri T. S. A. Chettiar: Sir, I want to move an amendment to Mr. Bhagat's amendment. I beg to move.

In the amendment proposed by Shri B. R. Bhagat, in the Explanation, after "women and children" insert "of any particular religious community".

The intention of this amendment is to make clear what the hon. Finance Minister has said just a few minutes back. He said, as a result of a claim made in this House that endowments or charities for the advancement of Hindu women or Hindu widows or something like that will be barred, if a specific provision is not made. We entirely agree with the general proposition that as a general rule, all endowments by religious institutions and public charities should generally be directed for the benefit of all communities in this country and not confined to small petty religious groups. For such a limitation will not tend towards national consolidation. So, as a measure of national consolidation, we would like to encourage gifts for all communities. We agree entirely with that position. We also agree that in the case of certain communities which are backward, and for whom special attention should be paid, gifts specifically for them can be allowed. Those backward com-

unities are referred to in the Explanation which reads:

"A purpose which is expressed to be for the benefit of scheduled castes, backward classes, scheduled tribes or of women and children shall not be deemed to be for the benefit of a particular religious community within the meaning of this clause".

Now the question arises, what will be the meaning of the term 'women and children'. The probable meaning will be women and children generally belonging to any specific community.

Mr. Deputy-Speaker: That point has been explained by the hon. Finance Minister.

Shri T. S. A. Chettiar: This amendment of mine only makes clear that explanation, and so I hope it will be accepted.

Shri N. P. Nathwani (Sorath): May I move a further amendment to Amendment No. 578 moved by Mr. Bhagat? My amendment reads:

In the amendment proposed by Shri B. R. Bhagat, in line 3 of the Explanation, for the word 'and' occurring after the word 'women', substitute 'or'.

There might be institutions which may be confined only to women or only to children. But according to the Explanation as it stands in No. 578, the institutions must be for both women and children. My amendment seeks to cover institutions run only for women or only for children.

Mr. Deputy-Speaker: 'And' very often means 'or', and 'or' very often means 'and'.

Pandit Thakur Das Bhargava: In the Constitution also, the same wording is used.

Mr. Deputy-Speaker: If it is 'women or children', then it will mean that both cannot be combined.

Shri N. P. Nathwani: 'Or' would include both.

Shri R. K. Chaudhury rose—

Mr. Deputy-Speaker: Order, order. Will not hon. Members resume their seats, however big they may be, when I am on my legs? When an amendment is moved, I must place it before the House first. Why should any hon. Member, particularly Mr. Rohini Kumar Chaudhury be impatient?

Shri R. K. Chaudhury: I am sorry, Sir.

Mr. Deputy-Speaker: Amendment moved:

In the amendment proposed by Shri B. R. Bhagat, in the Explanation, after "women and children" insert "of any particular religious community".

As for Mr. Nathwani's amendment, the term 'women and children' will mean either women or children or both. So, I do not think this amendment is necessary.

Pandit Thakur Das Bhargava: The wording in our Constitution is 'women and children'. Article 15(3) of the Constitution reads:

"Nothing in this article shall prevent the State from making any special provision for women and children."

Shri R. K. Chaudhury: Sir, in the amendment which is proposed...

Mr. Deputy-Speaker: Can he not pass on the amendment to me?

Shri R. K. Chaudhury: If you prefer my written words to my spoken words, I shall give the slip.

Mr. Deputy-Speaker: Let me read it first.

Shri R. K. Chaudhury: I beg to move.

In the amendment proposed by Shri T. S. A. Chettiar, after "community" add "and professing any particular religion."

[Shri R. K. Chaudhury]

I think the real object of my friend is perhaps to make that clear. Women and children may belong to any religion, not to any particular community.

Mr. Deputy-Speaker: 'Religious community' is already there. Does he mean 'any religious community belonging to any religion?' That is, they may belong to one religious community and profess another religion: I think this amendment is unnecessary.

Shri Dhulekar: I beg to move:

In the amendment proposed by Shri B. R. Bhagat, after "particular" insert "caste or section of a"

So that it will read like this:

"but does not include any purpose which is expressed to be for the benefit of any particular caste or section of a religious community".

Mr. Deputy-Speaker: 'Religious community' as a whole is a large group. He wants a further sub-division 'of any caste or section of a religious community'.

Shri Dhulekar: Yes.

Pandit Thakur Das Bhargava: Are we to understand that 'caste' is a religious community?

Shri Tulsidas (Mehsana West): It is not a religious community.

Pandit Thakur Das Bhargava: It is a section of a social community. Caste can never be regarded as a religious community.

Mr. Deputy-Speaker: These are the amendments which have been moved to the amendment. They will be taken up the next day.

BUSINESS OF THE HOUSE

Mr. Deputy-Speaker: The House will now take up Private Members' Legislative Business.

Shri C. R. Narasimhan (Krishnagiri): What about Bill No. 34, Sir?

Dr. N. B. Khare (Gwalior): Will we be allowed to introduce Bills, Sir, which were left over the other day?

Mr. Deputy-Speaker: The other day also Bills were introduced with respect to which there is no opposition in the House. If there is any opposition, they must come in the ordinary course. Those which are not objected to even in the introduction stage, I will allow to be moved now. I understand that with respect to Pandit Thakur Das Bhargava's Bills Nos. 36, 42 and 44 and Mr. Pataskar's Bill No. 45 there was no opposition and the others were opposed then. The same position continues. They are in the order paper.

Shri V. P. Nayar (Chirayinkil): The others cannot be moved?

Mr. Deputy-Speaker: They will come in due course after the other Bills are exhausted. (Interruptions). The hon. Member should have asked the Home Minister previously whether he was willing or not. I am not prepared to take up the time of the House and ask the Minister what he is going to do. The hon. Member should have asked the Minister.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

(Amendment of sections 496 and 497)

Pandit Thakur Das Bhargava (Gurgaon): I beg to move for leave to introduce a Bill further to amend the Code of Criminal Procedure, 1898.

With your permission, Sir, may I introduce the other Bills also standing in my name?

Mr. Deputy-Speaker: Let it be one after the other. The hon. the Home Minister will kindly consider this. There is a proposal for introduction of Bills Nos. 36, 42 and 44 by Pandit Thakur Das Bhargava.

The Minister of Home Affairs and States (Dr. Katju): I thought it was a day for consideration of Resolutions, Sir.

Mr. Deputy-Speaker: No.

The Deputy Minister of Home Affairs (Shri Datar): Bills.

Mr. Deputy-Speaker: I would suggest to hon. Members that when they want to get through this business they must previously intimate the Minister so that he may have time to consider whether he is willing or not.

Dr. Katju: So far as I am concerned, I deal with the Code of Criminal Procedure. I have no objection to its being introduced.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Code of Criminal Procedure, 1898."

The motion was adopted.

Pandit Thakur Das Bhargava: I introduce the Bill.

BUSINESS OF THE HOUSE

Pandit Thakur Das Bhargava (Gurgaon): Sir, I beg to move for leave to introduce a Bill further to amend the Essential Supplies (Temporary Powers) Act, 1946 (amendment of section 7 and substitution of section 9).

The Minister of Law and Minority Affairs (Shri Biswas): I do not know whether it pertains to the Law Ministry. I have not seen a copy of the Bill.

Mr. Deputy-Speaker: Then I am not allowing it now. The hon. Member must have informed the Government.

Pandit Thakur Das Bhargava: Under the rules, all we are required to do is to give notice, which we have done.

Mr. Deputy-Speaker: I cannot go out of the way and allow it. Even the other day I said only those Bills to which exception was not taken should be introduced. For that purpose, if the hon. Member wanted to have it expeditiously put through, he must have consulted the Government. The Government are not in a position to

make up their mind now regarding the Essential Supplies Bill.

Shri Biswas: This is a matter for the Law Ministry. My difficulty is this. On the last occasion you said that any Bills which were not opposed might be allowed to be introduced, subject to the consent of the others whose items were before these in the order of business. I did not know that the same rule would be followed today. I expected in that case that some reference would be made to the Ministry concerned to find out whether the Ministry was opposed to it or not. I quite frankly confess this. Copies of the Bill must have been sent—and had been sent—but I did not look into those Bills to find out whether to oppose them or not.

Mr. Deputy-Speaker: Hereafter I would suggest to hon. Members who have tabled Bills to ask the Ministers in advance whether they would have any objection to the Bills being introduced. This should be ascertained in advance and the Minister should be asked for his reactions.

Shri K. K. Basu (Diamond Harbour): Sir, last time it was said...

Mr. Deputy-Speaker: Hon. Members must have consulted the Ministers concerned before.

Shri Biswas: In that case, I have got formally to object to this being introduced now.

Pandit Thakur Das Bhargava: I beg to move for leave to introduce a Bill further to amend the Child Marriage Restraint Act, 1929 (Amendment of sections 2 and 4).

Shri Biswas: I have to object to it.

Mr. Deputy-Speaker: Then I am not allowing it.

Shri Pataskar (Jalgaon): I hope there is no objection to the introduction of my Bill.

Shri Biswas: I am in the same position. If I had known I would have examined this Bill and come ready with my answer.

Shri V. P. Nayar (Chirayinkil): May I know if the hon. Minister is objecting?

Mr. Deputy-Speaker: The hon. Member is too alert. The Minister says that before he gives his consent he would like to know what exactly it is. Therefore it is quite reasonable.

Prof. D. C. Sharma (Hoshiarpur): What about 31?

Mr. Deputy-Speaker: Others are not agreed to.

CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

(Repeal of sections 266, 267 etc.)

Shri S. V. Ramaswamy (Salem): I beg to move:

"That the Bill further to amend the Code of Criminal Procedure, 1898 be taken into consideration."

In submitting this Bill for the kind consideration of this House I cannot do better than read the Statement of Objects and Reasons which runs as follows:

"The jury system is unnecessary and assessor system is useless.

Oftentimes the Jury returns perverse verdicts and Sessions Judges are generally disinclined to submit such cases to the High Court under section 307 of the Code of Criminal Procedure for a variety of reasons. Whatever justification there might have been for the introduction of the system, it is out-moded. Our Judiciary is one of the best in the world and the robust independence of our Judiciary is the sentinel guarding the liberty of the individual. Should there be any mistake, there are a series of appellate courts to rectify.

The economy involved in their abolition will be enormous, and the Code will become much simplified."

I need not go into the history of the Jury system. You know, in England it

was introduced during the Norman times, as a system by which they could summon the neighbours to ascertain rights to property. It was mainly with the aid of this Jury system that the famous Domesday Book was compiled later on. It was introduced in England to take the place of trial by ordeal, by hot water, by oil and by fire etc.

[**PANDIT THAKUR DAS BHARGAVA** in the Chair]

Then ultimately the Jury System was introduced both in civil and criminal matters. I need not elaborate upon it but only I would submit that that has been claimed to be a palladium of liberty, one of the glories of the English Judicial system. It is found everywhere the English speaking nations are found. You cannot think of the English Judiciary without the jury system which is a integral part of it. The position, as briefly stated by an eminent author so far as England is concerned, is, "In England while the Jury in criminal cases operates well and is not criticised, the jury in civil cases is almost obsolete."

If the jury system in England is a success it is due to historic reasons. I shall presently submit to you, Sir, that where it has been taken to other countries with a different set up and civilisation, the jury system has not succeeded.

11 A.M.

You know, Sir, that in the American Constitution, Art. 3 lays down definitely that there shall be trial by jury in all cases except in the case of impeachment. Following upon this Constitution several State Constitutions introduced similar provisions but in the U.S.A. they went far beyond the original scope of the English system. Several modifications were introduced in several states, for instance the Jury not merely giving a verdict on a question of fact but deciding a question of law as well and as to what punishment is to be given. The system in the U.S.A. is overworked and it is under very severe criticism. I shall read only one passage from Roscoe Pound, an

eminent writer on Law in the *Encyclopædia of Social Sciences*:

"In contrast with its great popularity in the 18th and 19th centuries the jury system is now almost everywhere under attack. All American Constitutions guaranteed it as essential to liberty and free Government. Today it is being modified or restricted on every hand or is becoming disused. In the U.S. in civil cases waiver of jury trial or reference of cases to referees has become increasingly common. To this growing disuse must be added a long list of modifications which indicate a moribund institution. As to the jury in criminal cases that also is under attack generally. As it is, the steady growth of waiver of jury trial in criminal cases and the extension of summary criminal jurisdiction present a story very similar to that of civil Jury."

Now the position of jury system on the Continent of Europe has been ably summarised by another eminent writer, William Seagle:

"Everywhere there has been a growing discontent with the Jury system and there are not many continental jurists who have much to say in its favour except in connection with press and political offences.

An explanation for the dissatisfaction with the jury system should rather be sought in the fact that technically the jury represents a rather cumbersome procedure and politically a means for effectuating the will of the middle class. A great deal may be said for the jury, but it may as well be recognised frankly that efficiency in the trial of causes is not among its virtues."

Having summed up the position generally in England, in America, on the Continent and in several other countries, I would like to take you briefly over the history of the jury system in India. The first mention of this jury system has been made in

some of the regulations but a clear picture of what was obtaining in 1832 is given in Regulation 6 of that year. I am reading, Sir, from the First Report of the Indian Law Commissioners of 1835:

"At the trial the Sessions Judge is assisted by a Mahomedan Law Officer, who is called the Molvee Adawlut. He may also call to his assistance respectable natives in any of the following ways: 1st. he may refer the whole case, or any point in it, to a *panchayat*, who carry on their inquiries apart from the Court, and report to it the result; 2nd. he may constitute two or more persons assessors or members of the Court, the opinion of each assessor to be given separately, and discussed; 3rd. he may employ the persons as a jury. When the person to be tried is not a Mahomedan he may claim to be exempted from trial under the provisions of the Mahomedan Criminal Code; and in such cases the Judge is to proceed in one of the ways above referred to."

I proceed further:

"The depositions of the witnesses examined by the Sessions Judge are also reduced to writing, and the Law Officer is required to write at the end of the record of the proceedings the *futwah* or decision of the Mahomedan Law, as applicable to the circumstances of the case, comprehending both the fact and the law; that is, whether the evidence be or be not sufficient, according to that law, to establish the guilt of the prisoner, and what degree of punishment the law assigns for the offence with which he is charged..."

"After the Judge has read the *futwah*, if it appears to him consonant to natural justice, and also conformable to Mahomedan Law, he is to pass sentence in terms of the *futwah*, except in cases where the sentence is for death or imprisonment for life. In such cases, he is to transmit copies of the

[Shri S. V. Ramaswamy]

sentence and proceedings to the Nizamut Adawlut, and to await its final sentence."

"When the trial is before the Judge, assisted by respectable natives in any of the ways before mentioned, he may dispense with the *futwah* of the Mahomedan Law Officer, which is declared to be unnecessary."

At that time, Sir,—reading further from the same report:

"The criminal law is that which prevailed in India under the Mahomedan rulers of the country, modified by the Regulations of the Government of Bengal, and Acts of the Council of India. The Mahomedan criminal law may be generally described as written or unwritten, the former being contained in many recognised treaties on Mahomedan law, and the latter being gathered from the practice of the country as expounded by the law officers in cases for which there is no positive written law."

Why this system was introduced is ably summarised by Cowell in his Tagore Law Lectures on the "History of Constitution of Courts and Legislatures in India."

Shri V. P. Nayar (Chirayinkil): What year?

Shri S. V. Ramaswamy: At the beginning of this century, about 1911. It is the latest edition 1938 I have got. At page 197, it is said:

"In 1832 (Regulation VI), it was considered desirable to enable the European functionaries who presided in the courts for the administration of criminal or civil justice to avail themselves of the assistance of respectable natives in the decision of suits or in the conduct of trials which might come before them. Provision was accordingly made for referring suits to a *panchayat* or for constitution of assessors to assist the Judge, the decision however being vested ex-

clusively in the officer presiding in court."

Therefore this system was introduced in this country largely because the presiding judicial officers were Europeans, Englishmen, and they did not understand Indian customs and manners and it was mainly meant to assist them. Commenting upon this system, the Law Commissioners reported in their notes on clauses to the draft Bill of 1855 which subsequently became the Criminal Procedure Code of 1861. They have stated this particularly with reference to Chapter XIX. Section 260 of the Draft Criminal Procedure Code reads like this:

"Criminal trials before the Sessions Judge, in which a British subject, or an European, or an American, or an East Indian, or an Armenian, or a person of any other class to which the Governor General in Council may see fit to extend this rule, registered according to such rules as the Governor General in Council shall prescribe, is the defendant or one of the defendants, shall be by jury, of which at least one half shall consist, if such defendant desire, it, of persons so registered."

Mr. Chairman: It has already been pointed out in the Act.

Shri S. V. Ramaswamy: I am tracing the history and how the system was introduced and worked.

Shri V. P. Nayar: Is there any reference to Kautilya's *Arthashastra*?

Shri S. V. Ramaswamy: No; you interpret it as a jury. In their notes on clauses in the draft Bill, they say they are abolishing the grand juries. With regard to trial by jury, they say like this:

"We propose to retain this mode of trial in Calcutta, and in the case of British subjects in the *mofussil*; to extend it to certain other classes in the *mofussil* who have not hitherto enjoyed it; and to leave it to the discretion of the Governor

General in Council to extend it to such other places out of Calcutta as he may think fit."

"It will be seen, however, on a reference to the rules that we have proposed that the right of trial by jury in the case of persons residing beyond the limits of any place to which this mode of trial is extended, is to be conditioned upon registration, according to such rules as the Governor General in Council shall prescribe. It will be at the option of the parties entitled to register to avail themselves of the privilege, and we think they should be allowed to exercise this option at any time previous to trial. A reference to the register will at once decide the right to be tried by a jury."

Now, Sir, this was the state of affairs in 1855 according to the report. Subsequently, the recommendations were accepted and the Bill was passed in 1861, a year after the Indian Penal Code was placed on the statute book. Subsequently, there have been several amendments to the Criminal Procedure Code, but I wish to draw the attention of the House to only one passage in the proceedings of the Council of the Governor General of India, assembled for the purpose of making laws and regulations, dated 16th April, 1872. I am quoting a passage from Mr. Stephen's speech. Now, it is in that Bill of 1872 that Section 307 was introduced, by which the Sessions Judge may make a reference to the High Court against the verdict of the jury, if he was not satisfied with it. On that Mr. Stephen says:

"On the chapter (XIX) which relates to trials, I may make a few observations. It embodies the law upon the subject of juries, in which we have made several important alterations. We propose that if the Judge differs from the Jury he may refer the case for the opinion of the High Court. We also propose that the High Court in exercise of its powers of revision may, if it thinks fit, set aside the verdict of the Jury if the Judge

has misdirected. In other respects we have not altered the existing law."

Proceeding further, he says:

"I am aware that some of my colleagues think that we have changed the spirit of the whole system so much by these alterations, that it would have been better to sweep it away altogether. I cannot myself think so. I certainly should not have suggested the introduction of the jury system into India, if I had not found it here, and I cannot say that the opinions given of it by those who have had experience of its working are at all favourable. They were not, however, so altogether unfavourable as to induce us to take the step of recommending its total abolition."

Prof. D. C. Sharma (Hoshiarpur): Wherefrom are you reading?

Shri S. V. Ramaswamy: This is from the Debates in the Council of the Governor-General, 1872. I shall content myself with reading one other passage. I am again reading from the proceedings of the Council of the Governor-General, dealing with the consolidation of the Code of Criminal Procedure, 1898 the Code which we are now following. Mr. M. D. Chalmers, a distinguished barrister from England, Member of the Council, speaking on that Bill has said like this:

"Looking at the Code as an English lawyer, I must say I am struck by its complexity, its cumbersome, its over-minuteness, its attempt to regulate every case that can possibly arise. But I am assured by those who know Indian public opinion that people in India like to have every movement and action of their lives regulated by law, and that this Code which would be utterly and absolutely unsuited to England, where matters are left to the discretion and practice of courts, is nevertheless required and necessary in India."

[Shri S. V. Ramaswamy]

The history of the jury system has not always been happy. Even before I had raised this question on the floor of this House, it has been agitating the minds of several leading lawyers and Bar Associations.

Shri V. P. Nayar: Including yourself.

Shri S. V. Ramaswamy: And, my friends will be in a better position to tell the House that even the Madras Bar Association in its Annual Conference—I believe it was held at Madura in 1946—passed resolutions—and earlier also—that the jury and assessor system must be abolished. There are several members of the Bar who have active practice, leading practice, who know how by maintaining this jury system we are not advancing the cause of justice even one inch. Speaking for myself, Sir.....

Shri A. M. Thomas (Ernakulam): Does the hon. Member know that a leading lawyer like Dr. Katju is personally in favour of the jury system?

The Minister of Home Affairs and States (Dr. Katju): I am not a leading lawyer. He is referring to leading lawyers.

Shri K. K. Basu (Diamond Harbour): He has given up practice.

Shri S. V. Ramaswamy: Speaking more intimately of the system in the Sessions courts, it has been always a constant struggle between the Defending Counsel and the Prosecuting Police officers, to see that the jury is kept free from influence and pressure of all sorts, moral and material. I can give you one instance where I appealed to the presiding Judge—it was 6 p.m.—to continue the sessions case the same day because I expressed to him that if the court rose for the day and assembled the next day, the verdict would not be the same. The Sessions Judge was pleased to sit up till 9-30 p.m. that day and, would you believe it, Sir, that the verdict was 'not guilty'. If only I had not made that request and if only the Sessions Judge was not pleased to accede to my request, as sure as I am

alive, the verdict would have been 'guilty' the next day, and all the accused would have been behind prison bars. Because overnight the police would have been after the jury and somehow or other they would have given a different verdict.

Dr. Katju: I want to raise a point of order, Sir. Probably my hon. friend won a very good case. But to say "that the police would have been after the jury and would have influenced them" would be unfair. It would be really imaginary. I am not prepared to think that my own countrymen are such perverse people.

Mr. Chairman: If the case continued from day to day in the Sessions court, why could not the police do something during the previous nights?

Shri S. V. Ramaswamy: It is all in the game, Sir. I am not accusing the police.

Dr. Katju: It is a question of life and death and my hon. friend is treating it as a game.

Shri S. V. Ramaswamy: What I want is that there should not be this game.

You know, Sir, that I have referred to Chapter XXIII of the Code of Criminal Procedure. It contains 70 sections. According to my view, Sir, only 10 sections need remain there. Those would be 270, 271, 273 and 286 to 292. These are the ten sections that need remain in that chapter; all other sections may safely be given up. They introduce an element of great complexity and an ordinary man cannot understand those sections and give a proper verdict. The law is so intricate and where a grave crime is committed the evidence is so heavy and so detailed, we cannot always expect the layman to understand and give a proper verdict.

Apart from that, I may submit that it involves a lot of expenditure and unnecessary work for the State. Take, for instance, sections 312 to 330. All these mean needless work for the State Government. A list has got to be prepared, a list of common and special

jurors, publication of preliminary and revised lists, number of jurors to be summoned, summoning of jurors etc., High Court and Military jurors, failure of jurors to attend, liability to serve as jurors and assessors, exemptions, lists of jurors and assessors and publication of lists, objection to the list, revision of the list, preparation of the list of jurors, the District Magistrate to summon jurors or assessors and so on and so forth.

Shri N. Somana (Coorg): Does this Bill contain provisions to repeal these sections?

Shri S. V. Ramaswamy: I am accepting an amendment to be moved by Shri Mukund Lal Agrawal. I would only say at the outset that I am thankful to Mr. Agrawal for his amendment. I know, Mr. Altekar has also given notice of one amendment. It completes the lists of amendments to be carried and when they are moved I would certainly accept them. I need not labour this point.

In conclusion, I would only submit that we would not be losing anything by the abolition of the jury and assessor systems. On the other hand, we would be gaining in every way. It would be tantamount to a declaration of our absolute faith in the honesty, integrity and capacity of our great judiciary. I yield to none, Sir, in my profound respect and appreciation of the Indian judiciary. From the District Munsifs right up to the Supreme Court, we have got an institution which is second to none in this world. I pay my humble tribute to the personnel of the Indian judiciary who have got great learning, great capacity and above all, great integrity. We can trust them to defend the liberties of the individual. We do not need the assistance of laymen like jurors and assessors. I submit, Sir, let us accept this Bill and pay our humble tribute to the great Indian judiciary of which every one of us in India must be proud.

Mr. Chairman: Motion moved:

"That the Bill further to amend the Code of Criminal Procedure, 1898 be taken into consideration."

There is an amendment to the effect that the Bill be circulated for eliciting opinion thereon. Is the hon. Member moving it?

Shri Venkataraman (Tanjore): Yes, Sir. I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December 1953."

The mover of this Bill has very ably dealt with the history of the jury and assessor system in Europe, in England and in India.

Shri Achuthan (Cranganur): May I know whether in other countries there is this system?

Shri Venkataraman: Yes, in some.

The purpose of my moving this amendment is to have before the House the opinion of the bar associations in India, of the judges, of the High Courts and the public, with regard to an institution which has been functioning in this country for a long time. The assessors, as you know, try nothing and decide nothing. They merely assist the judge in coming to a conclusion. Several bar associations have expressed the opinion that the system of trial with the aid of assessors is no longer necessary. On that question, I think, at any rate the opinion of the Madras Provincial Bar Federation is fairly categorical. In the resolutions passed at the annual conferences a fairly unanimous opinion was expressed that the trial with the aid of assessors is wholly unnecessary.

If you trace back the history of the trial with the aid of assessors, you will find that in those days when the British judges did not know the language of the country, they wanted the help of assessors who could understand not only the language but also the spirit in which the evidence was given by the witnesses and interpret them to the judges. It follows that when our judiciary is manned by our own people that sort of assistance does not appear to be necessary. Any way, on this question, the opinion of any particular

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State or any particular section should not be deemed to be conclusive and the opinions of bar associations all over India should be before this House for us to decide on this matter.

Then we come to the juries. The jury system in the mofussil differs from the jury system in presidency towns in regard to powers of decision in respect of giving verdict. Now, while in the mofussil the opinion of the jury is not binding on the judge, the presiding judge, in the presidency towns the unanimous verdict of the jury is binding on the judge. In the case of difference of opinion also there are differences between the presidency towns as well as mofussils. My own experience is that the jury system has worked fairly well in the presidency towns. I do not know of any complaint, except odd ones,—I talk of the generality of opinion—against the jury system in presidency towns. The juries are drawn from educated, respectable class of persons and it is good to have the assistance of that class of persons in deciding questions of fact. As regards the mofussil, I am unable to share the same opinion about the utility of the jury system in the mofussil. I think on that question we ought to get the opinions of the district judges who have had to deal with the juries. They might have more experience than any one of us, including my hon. friend Mr. Ramaswamy. They sit and hear cases with the help of the jury and they know when the jury has been perverse and when the jury has been right and what is the balance of convenience in respect of having the jury system. Therefore my motion that it should be circulated for eliciting opinion is I think one which will command the universal acceptance of this House. I do not want at this stage—unless you direct that the whole Bill is also under discussion now—to go into the merits of the several clauses. I will content myself with moving this motion that the Bill be circulated for the purpose of eliciting opinion thereon by the 31st of December 1953

Mr Chairman: Motion moved:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December 1953."

Shri Punnoose (Alleppey): I rise to support the amendment just now moved. The valuable views placed before the House by my hon. friend Shri Ramaswamy is worthy of consideration—there can be no two opinions about it. I have often heard much said against both the jury and the assessors. It may be that they are not working properly now. It is very doubtful whether these assessors and juries have been able to perform their work in an efficient way in our country. The reasons for the bad working of the system have to be examined. It may be that these systems grew up under a foreign government and naturally that accounts for its present state. It has yet to be found out whether the system can be put on a proper footing. Now what my hon. friend Mr. Ramaswamy wants to do is to chop it away, to cut it away. That is very easily done. But I do not think that is the way the House should behave with regard to an institution that has been in this country for some time. Of course, I do not want this system to continue if it is of no use at all. But let the country have a say. As the hon. Member who spoke last said, the bar associations, the Judges, the clients and the public at large have views on this matter. Every section of the people must be given an opportunity to express their opinion and some time should be given to the various associations and bodies to consider whether the system could be improved upon. I believe under healthy conditions the juries and the assessors can be of valuable help to democratise our system. If healthy conditions are given, they can be of help. It is not only a matter of legal and judicial implications as Mr. Venkataraman said. It is not only the letter but the spirit of the law that can be brought to bear on judgments if this system is worked properly.

I believe even Mr. Ramaswamy would have no objection to wait for a few more months, having waited all these years. Let us therefore put it before the people. I very strongly support the amendment that has been moved.

Shri A. M. Thomas: I rise to support the amendment that has been moved by my hon. friend Mr. Venkataraman. The system of trial by jury or assessors has been recently introduced in some of the Part B States with the application of Central Laws like the Criminal Procedure Code. In my part of the country though the system of trial by jury or by assessors was not obtaining before the application of the Indian Criminal Procedure Code, with its application, the system of trial by assessors has now been introduced. It has been there only for a very short time. It is very good to have from the judiciary, the bar associations and other accredited organisations the opinion that they hold after the introduction of this new system in our State. Though a lawyer myself, since, as I have said, the system was recently introduced in my State I am not in a position to give expression to any personal experience in this matter.

I do not want to enter into the merits or the demerits of the system of trial by jury. This is a matter on which much can be said on both sides. You may remember, Sir, that I put a question when my hon. friend Mr. Ramaswamy was putting his case before the House and when he was citing the views of experienced lawyers, that they are generally against this system of trial by jury. But there are very many eminent lawyers who hold a different opinion. I do not know what the experience and the opinion of an experienced lawyer like your good self is. But when I put this matter before a lawyer coming from Lucknow, he said: "your Dr. Katju will be against it." Eminent lawyers like Dr. Katju are definitely in favour of the system of trial by jury. The reason may be, as has been alleged by Mr. Venkataraman, that it has worked well in the presidency towns. Though the entire

Judicial system of our country is, so to say, modelled on the British administration and though it may be characterised as having been imported from a foreign country, we need not have any prejudice against the jury system as such. This is an age when we are aspiring to have People's Courts for the trial of offences and even for investigating into cases of corruption. So my submission is that there cannot be any positive objection to the trial by jury. And it is good that we get ourselves fortified with the opinion of the public as well as other accredited organisations.

I support the amendment of Mr. Venkataraman.

Shri M. L. Agrawal (Filibhit Distt. cum Bareilly Distt.—East): I had also a motion on the Agenda for the circulation of this Bill for the purpose of eliciting opinion thereon by the 1st December, 1953.

Mr. Chairman: There is one difference. In the motion of the hon. Member the date is 1st December whereas in the other amendment it is the 31st of December. Otherwise the motion is the same.

Shri M. L. Agrawal: Mr. Ramaswamy has done a distinct public service by moving for the consideration of this Bill. The judicial and legal system of this country is not indigenous. It is British in its origin and character, and it is at present what it has been during the course of hundred years or more or with adaptations here and there. But the system remains the British system.

There has been a cry for a long time for a reform of the judicial system in our country. Since the attainment of Independence this cry has become even louder and more insistent. It is not only in this country that there has been a demand for a reform of the legal and judicial system. Even in England, from where we have got this system, there has been a great demand for reforms, and in April 1947 a Committee was appointed in England under the chairmanship of Sir Raymond Evershed to suggest reforms. That

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Committee conducted an enquiry and after examining many witnesses and holding hundreds of sittings it has submitted its report recently. I would not take the time of the House in going over the detailed recommendations of the Evershed Committee. I want only to point out that the desire for reform in the legal and judicial system is universal.

In our own country the first Committee was appointed in 1924. It was an all-India Committee. In various Provinces several Committees were appointed after 1924 to suggest reform of the judicial system. As many as seven or eight Committees were appointed in U.P. I would not go into the details of the recommendations of these Committees. But I would refer to the Committee which was last appointed, in 1950. It was a Committee presided over by no less a person than Mr. Justice Wanchoo with whom we are all familiar. It was on the basis of his report that the Andhra State Bill was passed only yesterday in this House. That Committee was constituted by the U.P. Government in 1950 and its terms of reference were very wide indeed. That Committee was entrusted with the work of examining the entire legal system—not only the present limited provisions—but other provisions also. The object of the Government was to suggest means to make the legal system cheaper, simpler, more informal, and more expeditious and efficient. That was the object.

That Committee after long sittings has made several recommendations. I would come to the recommendations of that Committee and a few other Committees that preceded it in U.P., later on. Before going to that I want to refer to a speech contained in one of the proceedings before the Council of the Governor-General of India in 1872. I would not go over the same ground that has been covered by the mover of the motion for the consideration of the Bill. I would like to point out that Mr. S. V. Ramaswamy quoted a passage from the speech of Mr. Stephen who

moved the Bill before the Governor-General's Council. The hon. Lieut. Governor of Bengal who was also a Member of the Council of the Viceroy, made a speech and his criticism, I think, was even more outspoken about the system of trial by Jury. Excuse me, Sir, for reading this small quotation from the speech of the Lieut. Governor of Bengal. He said:

"Another subject to which he would draw the attention of the Council was the difficult subject of juries. In this country, juries framed on an English model were not altogether beneficial instruments in the administration of criminal justice; at the same time, he had not been willing to abandon the jury system altogether because, although he did not think that trial by jury was an unmixed good, he believed that the system had a great effect in the political education of the people. It was a very great object to induce the Natives of the country to take a part in self-government and in the administration of justice, and it was in that respect only that he regarded the maintenance of the jury system in criminal courts to be of some value. At the same time, he felt that the jury system was less fitted for criminal trials than to some trials of a civil nature: he should be glad to dispense with the jury system in criminal trials if there could be introduced something in the shape of trial by jury in civil cases. The Courts at present laboured under great difficulties in the determination of civil cases. It was in many cases a most difficult matter for them to arrive at the truth. He looked upon a panchayat somewhat in the light of a jury without the superstitious number twelve and he hoped that, if they dispensed with juries in criminal courts, they should be able to introduce something like the jury system in regard to civil cases."

The point made out by this speaker was that it was necessary to introduce that system with a view to give political education to the people of this country. I submit we have long passed that stage of political education. Whatever the reason might have been at that time, it is no longer available. I must admit that in our country there has existed a certain glamour for trial by jury and certain people are still in favour of trial by jury. That is why even in those early days, 1872, and later on, some people wanted that trial by jury should be extended.

In this connection, in the U.P., in 1921, a committee was appointed, known as the Dalal Committee. That committee was appointed to consider and recommend the extension of the system of trial by jury. That committee certainly recommended the extension of the jury system. But, later on in 1938, another committee was appointed under the Chairmanship of Mr. Justice Niamatullah. He was a Judge of the Allahabad High Court. I would refer to the recommendation of that Committee in respect of trial by jury. That committee recommended that the Jury system should receive no further extension, that if it be decided to extend the system, it should extend to the whole province and that the system of trial with the aid of assessors should be abolished altogether. That committee recommended some safeguards against abuse of the system of jury trial in case it was to be retained. This was the position in 1938.

Finally, there was the Wanchoo Committee to which I have referred. Justice Wanchoo was not alone in this committee. He was assisted by eminent Judges and jurists,—lawyers of great fame. I may give the names of a few of them: Sri Niamatullah, retired Judge, Allahabad High Court, Shri Tika Ram Misra, Ex-Judge, Allahabad High Court, Dr. R. U. Singh, Sri K. K. Bhattacharya, etc. This was a very eminent committee, eminently fitted to make recommendations on this aspect of the question. The terms of reference were very wide indeed. The terms of reference are

given under two heads (1) and (2). Under sub-clause 2(c), the question referred to this committee was whether the system of trial with the aid of jury or assessors should be further extended, limited or eliminated and, if so, in what class or classes of cases. How did this committee go about its work? Some argument was made by some hon. Members who preceded me that we should come to a conclusion after the Bill has been circulated widely, and opinions of Judges and so on were gathered. This Committee proceeded by issuing a questionnaire covering all problems of administration of justice and invited the opinions of district magistrates, judicial officers, legislators, Members of Parliament, eminent lawyers, official receivers, District Government counsel, University professors, businessmen, Chambers of Commerce, etc. After considering all this huge volume of evidence before them, they came to the conclusions which they have given in their recommendations. I would, with your permission, Sir, give a small quotation from their recommendations. They have given their recommendations about assessors and jurors separately. About assessors they say:

"The system of trial with the aid of assessors has been in vogue since long without any practical utility. Although the verdict of a jury cannot be set aside except on the ground of perversity or illegality, the opinion of assessors has no value whatsoever. The Judge is fully empowered to disregard the opinion of assessors in its entirety. The calling of assessors in sessions trial causes unnecessary waste of public money and the assessors are of no real help to the judge. Their presence at the trial could have some value in olden days when judges of foreign nationality used to preside over Sessions Courts and they being not conversant with the social customs and habits of the people of this country could take the help of assessors in appreciating facts. Now that all Judges are from this

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very country, the assessors have lost even the little utility which they previously had.

The opinion submitted to this Committee is almost unanimous that trial with the aid of assessors merely results in waste of public money without any corresponding advantage. The Committee therefore recommends that all sections in the Code of Criminal Procedure dealing with the trial of sessions cases with the aid of assessors, should be completely omitted.

About Jury trial they say:

"A large majority of those who have replied are in favour of the abolition of the jury system. It seems that even in the few districts where this system has been working in connection with a few cases it has not been a success. The general complaint is that jurymen are open to approach and do not give a fair verdict on the evidence. It seems difficult to provide for the locking up of the jury in the present conditions as it will mean a very great expense if the system is to be introduced in all the districts of the State. Besides, it would be very difficult except perhaps in a few districts to have a sufficient number of the right class of people who would be prepared to serve as jurors. Lately a new factor has arisen which also makes it impossible to adopt the jury system, namely, a large majority of sessions cases do not finish on the first occasion and there is usually an adjournment for about a month or sometimes more. It is impossible to lock up the jury for all the period that the case is pending.

The system of trial by jury was borrowed in this country from England. The origin of this system was based on local knowledge and also independence of juries who were representatives of the people, against the arbitrary acts of King's Judges who were supposed to be

and were under the thumb of the King. It was therefore considered necessary to make certain that citizens should have a square deal when brought to the bar of justice. The present time, however, is of democracy when the legislature is responsible to the people and the Government to the legislature. There is little possibility of autocratic rule or of the judiciary being influenced by the rulers. The subordinate judiciary is under the direct control of the High Courts and the independence of the High Courts is guaranteed under the Constitution.

Jury trial has been extended only to a few districts of this State and there too all serious offences are excluded from jury trial. Recently the State Government has excluded certain more offences including those of dacoity. This Committee strongly feels that trial in Sessions Courts should be by the Judge alone and recommends that all sections relating to trial by jury should be omitted from the Code of Criminal Procedure."

I submit that I cannot find a more weighty authority for supporting the motion of Mr. Ramaswamy than the one I have quoted. It is recent. It is based on a large volume of evidence of the persons who were entitled to give their opinion on this subject.

The disadvantages of these trials by the jury system and assessors are too patent for me to dwell at length upon them. In the first place, they mean so much expenditure which can be utilised for other objects. Then, it causes delay. There are frequent adjournments due to the absence of jurors and assessors who do not turn up, and there is so much waste of public money and public time. Then, it prolongs the trial, and the accused are unnecessarily harassed by prolongation of trial. Besides this, every adjournment causes so much additional cost to the public exchequer. There-

fore, I think that the motion made by my hon. friend Mr. Ramaswamy is quite feasible, and I would submit that we can pass it just now and here. At the same time, I have made this motion for circulation as a concession to the possible conservatism of some of my hon. friends and hon. the Home Minister. If I find the reaction of the Home Minister to be favourable to take this Bill into consideration at once, I shall withdraw my motion, and support the original motion.

Lastly, I wish to point out some of the provisions of the Bill whose consideration has been moved by my hon. friend Mr. Ramaswamy. As a matter of fact, Mr. Ramaswamy has already referred to my amendments. I have tabled some amendments. The purpose of the Mover is to wipe out all provisions relating to trial with the aid of Juries and assessors. In that object he has not succeeded. There are several Sections of the Criminal Procedure Code which also would have to be deleted and my amendments to the Clauses of the Bill—4, 5 and 7—go to improve the Bill. The new Clauses 6(A) and 7(A) go to include all other Sections which also should be deleted in order to make the Bill more complete and fuller.

With these words, I would support my Motion for circulation of this Bill for eliciting public opinion by 1st December, 1953. As I have already said, I will be prepared to withdraw the motion if the hon. Home Minister is prepared to accept consideration of the Bill just now.

Mr. Chairman: Why should the hon. Member insist on his date? He can have 31st December.

Shri S. S. More (Sholapur): Make it 31st December.

Shri M. L. Agrawal: I have no objection to make it 31st December.

Shri S. S. More: I rise to support this particular motion, but in supporting this motion, I will try to cover a larger field.

Dr. Katju: Motion for?

Shri S. S. More: Circulation.

The present judicial system, both as far as civil matters and criminal matters are concerned, was framed by the Britisher. In framing this system, if we go through the original documents when the Criminal Procedure Code or the Penal Code was being reconstructed for this country by the British administrators, we can see that they tried to copy from the English system as far as it was feasible. Again, they took into consideration the temperament and the traditions of the people here, and tried to frame a sort of bureaucratic system. Sir Stephen's name has already been quoted. I have seen some document in which he describes the psychology of the people, the *zulum* to which they were subjected for so many ages, and he has opined that in this country only if we devise a District Officer who is entrusted with all the powers in the world, he will be able to command respect from the people, and the collection of revenue will be facilitated. I think it is more than sixty or seventy years, or nearly a century back, when this system was framed. Much water has flowed under the bridge since then. We have achieved Independence.

12 NOON

I support the measure which Mr. Ramaswamy has brought before the House, but I want to make a plea to the Government that it is high time for them to take a long-range and all-embracing view of the whole matter, to apply their mind as urgently and as early as possible to the reconstitution, to the re-orientation of the whole judicial system. I do not quote the previous declarations by the Congress, but particularly Mahatma Gandhi was very much insistent in saying that our judicial system should be both expeditious and cheap. I would ask the Government: "Is our judicial system expeditious and cheap"? No. There are so many provisions in the procedural code by which a trial is protracted for any length of time. I come from Poona. I can give many instances where criminal trials for such petty offences as under Section 323 have been pending

for two years, because there is a Clause that if a Magistrate is changed, the accused gets the right of saying that he wants a *de novo* trial.

Shri N. C. Chatterjee (Hooghly): Section 350.

Mr. Chairman: Two years is not a long period, in the experience of many lawyers.

Shri S. S. More: As a matter of fact, I am giving the minimum period. I am not giving the maximum. What happens if an accused is out to protract a trial for some reason or other? As a matter of fact, particularly in these Prohibition cases, the accused is interested in protracting the trial because some liquor has been attached. The liquor is kept in some *Malkhana*, and when the trial is protracted, in spite of the certificates of the Chemical Analyst or Analyser, by the period of two years, the liquor becomes *acqua pura*, with the result that the man gets the benefit of doubt and he is acquitted. I do not want to repeat all these instances.

It is time that we revise the whole judicial system. I would rather say that we must classify the offences into two categories—serious offences and minor offences. I would like to give you instances. For instance, when there is a faction fight between villagers in a village, a complaint under Section 323 is filed. Then both parties flock to the Court. The complainant is accompanied by about 25 persons. The accused too, if he is also an influential person, is accompanied by a large number of persons. This is loss to the country. They are all agriculturists. They are dragged to the Taluk Court or the District Court some miles away. They have to pay their transport charges. They have to maintain themselves at these headquarters. They lose their working hours on agriculture. On top of that, they have to spend. The result is that the trial goes on for about six months or one year. He is out of pocket to the tune of Rs. 200 or Rs. 300. It is a drain on the villagers. We were complaining during our national struggle that whatever we are sending

to England is a drain on the lean purses or the lean finances of this country, but this drain on the villages in favour of the urban areas is something which is breaking the back of the rural community. So, I would say that some of these offences may be classified as minor offences, and People's Courts or Panchayat Courts may be established, or a sort of Assize Court which can go on circuit and can hold the trial at the place where the parties are supposed to reside, should be undertaken. There are many suggestions which we who are supposed to have some experience of the original Courts can tender, in every branch of law.

Take for instance, confessions. The accused is supposed to make a confession. The Police, instead of applying their intellect, their investigating intelligence, to the detection of the crime, concentrate all their efforts on exacting a confession. The accused is brought before a magistrate, and the magistrate, possibly belonging to the executive arm, records his confession. By the time the accused is placed before a magistrate in the original court for committal to sessions or in the sessions court, he is given some legal advice, and possibly proper advice too, and he retracts the whole confession. There are many cases in which it has been held by the courts that the facts disclosed by the accused in his confession, and the facts objectively proved by the prosecution are at loggerheads. All such provisions ought to be modified. I do not want to dilate on this point any further, but I want to emphasise the urgency of a whole-sided, all-comprehensive inquiry into this matter, and the evolution eventually of a judicial system which will suit the modern times, which will suit the temperament of the people, and also be in a position to give justice fairly, expeditiously and as cheaply as possible. Possibly, I may be speaking against the interests of the fraternity to which I have the honour to belong, but I am sure that a majority of the lawyers have no doubt that if their legal intelligence is removed from this particular ambit on which it is now surviv-

ing as a parasite, it can be used for more constructive and beneficial purposes in the country.

Everybody is admitting that a malady is there, that the peasant is suffering from head to foot, but we are administering the medicine or remedy only in a piecemeal manner. This should be avoided. We should see that the remedy should be given completely so as to cure the malady.

While supporting the motion for circulation placed before the House, I would also make an earnest request to my hon. friend Dr. Katju and my hon. friend Mr. Biswas to put their heads together, as they are doing now.....

An Hon. Member: Knock their heads.

Shri S. S. More: I said they should put their heads together.

Dr. Katju: You also assist us.

Shri S. S. More: I am prepared to be at your service, if you so desire. This is a matter which requires serious study.

The present judicial system, I would say, is a remnant of the British bureaucracy that was governing our country. This judicial system has been designed for the purpose, not of dealing even-handed justice to all parties and sections, but for imperial purposes. The time is now over-ripe, when the Government should come out with a well-thought out and well-consolidated scheme, suitable to the needs of our country, to the temperament and psychology of our country, in the light of the modern conditions now prevailing.

I am rather dissatisfied with this trial by jury. With the limited experience I have got of these trials, I have found that when an accused belongs to a particular religion, and the jury or assessors consist of persons who belong to another religion, then the assessors or the jury are not in a position, for different reasons, to take an impartial or judicial view of the matter. If the accused belongs to one

caste, and the jurors belong to another caste which is at loggerheads with it, then.....

Shri A. M. Thomas: The same thing might be said of judges too.

Shri S. S. More: But I am prepared to say that the judges due to their training and long experience, may be expected to take a non-caste and non-communal view of the matter. But as far as the jury is concerned.....

An Hon. Member: What about village panchayats?

Shri S. S. More: This question is being asked by a Congressman, whose main plank is Gandhism. The basis of Gandhism is that the villages should have their own panchayats. Village autonomy should prevail, so that the village people can have the best control over their different aspects of life. I do quite concede that in certain cases, the villagers also might go wrong. But after some training, and after some experience, after some judicial trial for the purpose of correction or rectification, the village panchayats can be brought up to a stage where they can dispense justice with a fair measure of equality and fairness. That is my contention. I would therefore say that the Government, particularly Dr. Katju and Mr. Biswas should be amenable enough to consider this proposal which has emanated not only from me, but from many sections in the country.

Shri N. Somana: I rise to oppose the motion for consideration, and support the motion moved by Mr. Venkataraman for circulating the Bill for eliciting public opinion thereon.

The opinion, so far as the utility of the assessors or juries is concerned, is certainly very much divided. Even in the case of the experienced advocates, it is divided. Sometimes it can be said that the opinion of the assessors has helped the judge in coming to a right conclusion.

There may be instances where many local customs and local expressions may not be very patent to the judge, but may be known to the assessors.

[Shri N. Somana]

who will be in a position to assess the evidence that is placed before the judge, and present it in its proper perspective. At the same time, there are also cases where on account of the complicated nature of the law that is existing today, the assessors or the juries are not in a position to correctly assess the evidence. In our country today, unfortunately law and facts are very much connected and complicated, especially in most criminal cases. Law is often closely bound up with facts, and the result is that very often the juries or the assessors are not in a position to give a correct verdict. But that is only a negative aspect of the matter, only to say whether they are useful or not.

But nobody has been in a position to say that this is an institution which has done any injustice or any wrong, as it is contended by my hon. friend Mr. Ramaswamy. I certainly do not agree with him, when he says that the juries or the assessors are amenable to corruption and bribery at the hands of the advocates. If any such thing has been done, I say the blame should be laid at the doors of the advocates and not at the doors of the juries or the assessors themselves. That is an unfortunate remark with which I certainly cannot associate myself.

What is interesting, however, is to note that so far as the advocates are concerned, there is a uniform opinion that the juries and assessors should go, because very often the verdict of the jury or the assessors may not be in favour of the advocates. We often know by experience that whenever the verdict of a jury or an assessor is not in favour of an advocate, the advocate is likely to say that there is no use of these assessors or juries, and so the system could be abolished. But it is worthwhile knowing the opinion of the judges, as Mr. Venkataraman has pointed out, especially of the Sessions Judges and the High Court judges. It is really their opinion which counts, and not that of the advocates, who are naturally averse to this system.

Shri S. V. Ramaswamy: I am sorry my hon. friend is denying the experience of his own profession.

Shri Punnoose: He is referring to small advocates.

Shri Biswas: It is the privilege of advocates to abuse either the judge or the jury, whoever goes against them!

Shri N. Somana: I suppose it is common knowledge that all advocates blame the juries or the assessors, whenever their verdict goes against them. But anyhow, as I stated before, this is a matter on which the opinion of the Sessions and the High Court judges counts more than anybody else's. The move suggested by Mr. Venkataraman is the right one to be adopted.

I find one technical difficulty. The Bill as it is, is not comprehensive. There are very many Sections, which have not been included in this Bill. If it is to be circulated as it is, then it would be incomplete, because there are many sections which relate to juries and assessors, but which have not been touched at all in this Bill. So, I do not know how far it will be...

Dr. Katju: We want to elicit opinion on the most important topic, whether you would like to have the jury system or not.

Mr. Chairman: The other Sections can be put in afterwards.

Shri N. Somana: If the reference is mainly on the question whether the jury system should continue or not, certainly opinion could be taken on that matter, and the Bill brought forward again, if necessary. Anyhow, my submission is that it is a fit case where public opinion, specially of the Judges—Session Judges and High Court Judges—should be taken before we finally consent to it. I therefore support the motion for circulating the Bill for eliciting public opinion.

Shri Altekar (North Satara): I rise to support the Motion for circulation of the Bill for eliciting opinion. Of course, there are very different views

with respect to the utility of this jury system. In England its origin was in the trial by the neighbours and then it developed into the jury system. There was a tussle between the King on the one hand and the commoners over the powers of the Judges. They wanted to keep these courts free from the influence of the King. Later on, when they had their Magna Carta, there was a clause by which the Englishmen's right to be tried by jury was there guaranteed. Somehow or other, as the system advanced in course of time and there was an evolution of law and the courts and Judges became independent of the King and the political party in power, the system of jury is not finding so much support even in England these days.

Dr. Katju: I am not so sure about that.

Shri Altekar: So far as regards the trial of civil cases is concerned, sometimes it is waived.

Dr. Katju: In all cases relating to personal injuries, trial by jury is one of the most valued rights in England, e.g., libel, slander etc.

Shri Altekar: It is a valued right, no doubt. But during recent years, trial by jury is not so common as it was formerly. I can find it even in the recent volume of Social Encyclopædia. There it is said that trial by jury is not so much common now as it was in old times.

Dr. Katju: What about criminal cases?

Shri Altekar: So far as criminal cases are concerned, of course trial by jury is there.

Dr. Katju: In every case.

Shri Altekar: In England, it is valued and it is going on. But so far as America is concerned, American opinion about the trial by jury is, on the other side; they do not so much favour it now. They attached very great importance to it during their fight against the British and sometime afterwards. So far as the introduction of this system in India was concerned, it was brought by the Englishmen along with them, and in the Presidency towns it was

there. So far as the mofussil towns were concerned, they had given the right to the Europeans—Englishmen and Americans—and they extended it also to others in certain districts, not in all. Later on, we find that even in our own country opinion in connection with trial by jury is divided on both sides.

So far as trial by assessors is concerned, it was not unknown to us from the ancient times. So far as trial by jury also is concerned, I may say that the panchayat system of old was a trial by neighbours and very much akin to the trial by jury. But that was not common to all the cases. It was in cases of crimes of a minor character. Later on, of course, it was taken over by the British. We can find the trial by assessors being mentioned even in our old Smritis.

सोऽस्य कार्याणि संपश्यत्सम्पदैरेव त्रिभुङ्क्तः ।

Manu

"The Judge will look after the cases from day to day being aided by three assessors". So the assessor system was there. It is not that the Britishers themselves for the purposes of their Judges who did not know the languages of this country brought it here. It was there among us from old times. It was continued to the time of the *Gram Panchayats*. But later it came in a modified form when the judiciary was established by the British.

Now, the question is, how and to what extent this trial by assessors and by the jury should be continued any longer. The main ground on which the Britishers value this jury system is that it is a bulwark for protecting the liberty of the people against any encroachment by the State. And that being so and we having formed our Republic and established an independent judiciary system, a system which is entirely independent and free from political influence, the question is whether it is necessary to continue the jury system any longer. That is the point which has to be considered. Then again, this is a trial which is not obtaining in all the mofussil towns; it is in some places only. So far as the provincial places are concerned, where

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there are High Courts, it is there, but that too in criminal cases and there is not a general application of the jury system here in India. When we are to consider this question, we should look to all the aspects of the jury system, to what extent and under what circumstances it should be allowed. It is desirable that the opinion of all the Bar Associations in India, of all the Judges of High Courts as also Sessions Courts, should be taken as to how it is working and whether it is being abused. There is a complaint that the juries are sometimes ignorant, there is a great complaint that they do not properly understand the questions which are referred to them etc. It is not within the competence of laymen to understand the intricacies of law without these being explained to them, to assess the facts and to give their opinion. Under these circumstances we have to see whether such a system should be continued. That is a point on which the opinion of the highest Judges as also of eminent advocates and counsels is quite desirable and necessary. One should not pass any hasty judgment as regards the utility of this jury system without in any way taking into consideration the opinions of the highest Judges and of eminent lawyers in this country as to how this system is working and is effective so far as the whole country is concerned, whether any change is desirable therein and how far and to what extent it should be allowed.

Therefore, I submit, that this Bill should be circulated for the purpose of eliciting opinion of all these Judges as also of the Bar Associations and the public. Only when such opinions are received and we assess them in a calm and thinking manner, should we come to any certain conclusion. It is no use saying that the jury system has become quite out of date or that it is not in any way suitable to this country. From that point of view I support the Motion for circulation of this Bill for eliciting public opinion.

Shri N. C. Chatterjee: I am supporting Mr. More's appeal. It would be my earnest request to both the Law Minister as well as the Home Minister to see if they could do something to appoint a Commission with large and wide powers to go into the question of law's delays, both civil and criminal, and to do something to retrieve the very unsatisfactory state of things which obtains in India today.

I was appearing in a High Court where a criminal appeal in which about 39 accused had been convicted and that appeal was pending for over 4 years. Some of them had their bonds cancelled and were in jail. The Chief Justice—an experienced Judge—sitting with another Judge acquitted all of them and held that the trial was illegal. On the average, some of them had been in jail for practically more than two or three years. One of them had been acquitted, but the State had also appealed against acquittal and he was arrested and put back in jail. He could not furnish the bail and he was in jail and he was actually attending from jail—although he had been acquitted by the Sessions Court—the appeal court hearing from day to day.

Dr. Katju: May I just enquire who took the objection that the trial was illegal?

Shri N. C. Chatterjee: The appellant naturally took objection.

Dr. Katju: They ought not to complain. They had to enter trial. There was a misjoinder of charges. Why take objection?

Shri N. C. Chatterjee: It is perfectly scandalous. I hope the Home Minister. . . .

Dr. Katju: The Home Minister himself has been a lawyer. All the guilty persons want to escape by raising all sorts of questions and then complain here that they have been ordered for retrial.

Shri N. C. Chatterjee: There was no retrial ordered. The Judges said: "There should be no retrial". They were all acquitted by the High Court and I am sorry to say that in the High

Court with which Dr. Katju was associated for a number of years the appeal was pending for over four years, I think about five years. I am pointing this out so that something could be done to redress this very unsatisfactory state of things.

Dr. Katju: Then why talk of all those allegations; just go on merits.

Shri N. C. Chatterjee: I am sorry, Dr. Katju is not in a mood to listen today. Something has happened to him after the Andhra State has come into being. But he will do the greatest service to India as a lawyer of eminence as well as the Home Minister of India if he does something to put the judiciary, the whole judicial system, in order and I am quite sure all the sections of the House will give him their whole-hearted co-operation.

The Minister of Law and Minority Affairs (Shri Biswas): Let me tell you the home Minister is taking action in the matter.

Shri N. C. Chatterjee: I hope the action will materialise. We will be very happy to give our unstinted co-operation in that respect. The arrears have been multiplying in every High Court. Something should be done to simplify the procedure.

Now, with regard to this Bill there is practically unanimity of opinion throughout India that the system of trial by assessors has not been a success.

Shri Biswas: Question!

Dr. Katju: Two Judges of the same High Court and with the same judicial experience!

Shri N. C. Chatterjee: My learned friend, who was once my learned brother, questions. But what I am pointing out is: go throughout the length and breadth of India and you will find generally that the bulk of the opinion is that this has been without any practical utility. The Wanchao Committee Report also says:

"The opinion is almost unanimous. The trial with the aid of assessors merely results in waste

of public money without any corresponding advantage."

Shri Biswas: "Assessors" and not "jury".

Shri N. C. Chatterjee: I am not talking about jury, I am talking about assessors.

Shri Biswas: Then I withdraw my question.

Shri N. C. Chatterjee: It is just like my learned friend; he has criticised without following me. What I am pointing out is this. With regard to this assessor business it is high time that it should be ended. It is a useless system. The time has come when all the sections of the Criminal Procedure Code dealing with trial by assessors should go.

Now with regard to Jury trial, I honestly feel that it will be a bad day for India to say that Jury trial has completely failed and that you cannot in free India today, find a number of people, honest and fair-minded enough to help in the administration of justice and give honest judgment. As a matter of fact in England Jury system is an integral part of judicial system but that has been the result of experience of centuries. The Jury system has helped the growth of ideas of freedom and it has helped to develop democratic ideals not only in England but in other freedom-loving countries also. What is the cardinal principle of British system of justice? It is the jury system. I am sorry, my friend there was saying that it was going down in England. That was not my experience. In 1949 in the month of November I was in England. I was going daily to the King's Bench Court. I saw Chief Justice Goddard and other Judges were trying civil cases and criminal cases with the help of jury. I also went to the Old Baily. There also almost all the cases were tried by the jury. That is the greatest bulwark of freedom-loving people? What is the greatest guarantee of justice? It is the system of trial by jury.

Now, you know that in the defence of human liberty the jury system in England has played a very conspicu-

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ous and satisfactory part. In every court you will find jurors willing to help the Judges for the purpose of dispensing justice. You cannot generalise and repeat charges against the jurors throughout India. You cannot condemn and say that all jurors are corrupt, that they are open to approach or that they are amenable to caste influence and so on. In my experience, in the Calcutta High Court sessions, there has been no charge of corruption against any juror. Although passions had sometimes been inflamed, they behaved with full rectitude and uprightness. Any Judge, can go wrong but on the whole they have been fair. It would not be right to condemn the jury system. On the other hand, it will be proper to give it a fair trial. I do not think in Punjab there has been any jury system; there were only assessors. In some places there has been no fair trial given to the jury system and it would be only proper to consult the legal profession. The High Courts have got a right to say what should be done.

Different High Courts may have different views but I hope the majority of the Judges in India and the majority of Bar Associations will not support this Bill. They will say that the jury system should continue. Although there are many defects in our system of administration of justice, it will be a very unfortunate thing if you decide today that this system of jury should go. They might have some defects in some respects but you will find progress of democratic ideals and advance of public spirit if you maintain this system.

In England and other countries men and women are both conscious of their rights and duties and they have given a good account of themselves. Why should you think in India they will not be upto the mark? If there is anything, as my friend, Mr. More was saying, that reflects on the great legal profession the defaulting people should be strongly dealt with. If you like you could put juries in lock up. I think it would not be right

to condemn the jury system as a failure. It has served its purpose very well and it should be given a fair trial. It should continue in areas where it has been a success.

There are certain courts where it is impossible for the judiciary to function in a satisfactory manner, specially in the courts of Delhi; Dr. Katju knows better than anybody else. Sir Trevor Harries was the Chief Justice of Lahore High Court and he remarked that the conditions under which these courts were working were disgraceful. These courts are functioning here in small rooms. There are no proper rooms for Judges to hold their courts and if you stretch your hand in a court you may hit the Judge.

I am told the Home Minister laid the foundation stone of a new building in Delhi for the Courts a couple of years back. I was passing through that area yesterday. It is still nothing but a *Goshala*. Some attention should be given to it. You must improve the conditions of service
.....

Shri R. K. Chaudhury (Gauhati): Is the hon. Home Minister hiding his face on account of this?

Shri N. C. Chatterjee: If you want to improve the administration of justice, you must really give decent emoluments to the subordinate judiciary, and improve the conditions of service of the judiciary. Take, for instance, the city of Calcutta or Delhi. It is impossible for the subordinate judges, or Sessions Judges or the magistrates to get any decent living accommodation where they can possibly live and properly function. That should also receive the attention of the country. I hope the jury system would not be abolished and I hope that the assessor system would be ended in the interests of justice and in the interests of the country as a whole.

Mr. Chairman: Does the House want this debate to be continued on some other day?

An Hon. Member: We should be taking the view of the hon. Home Minister also.

Mr. Chairman: I see that the matter has been sufficiently discussed, and that the House wants to know the views of the hon. the Home Minister. If the House is anxious to go on with the debate, I have no objection.

Several Hon. Members: It should be continued.

Mr. Chairman: We can hear the views of one or two Members more in view of the time left today. It is, therefore, that I am asking the House whether it proposes to continue the debate.

Shri Venkataraman: In view of the motion that I have made that the Bill be circulated for eliciting opinion, discussions need not be continued.

Mr. Chairman: It is a very good suggestion. After all, this Bill is coming back to the House. So, we need not take much more time of the House at this stage.

An Hon. Member: Let both the Ministers express their view.

Dr. Katju: The Government are in agreement with the motion for circulation. But as the matter is of very great importance, and as some hon. Members have done me the honour of mentioning my name in this connection, I may say how the matter strikes me. In the olden days, when travellers used to come here from foreign countries, everybody noted that Indians were famous as truth-lovers. There were practically republics in every village in India and they said that Indians never told lies. Today,—I do not know what is happening, what would happen,—the situation is that every law court, civil or criminal, both, has become a home of perjurers.

Shri S. S. More: May I bring to the notice of the hon. Minister that when discussing one of the legislative reforms in those days, separation of the judiciary from the executive, it

was contended by an eminent British lawyer that in India, it was difficult to secure the conviction of a richman for any offence as it was difficult to get witnesses who could speak the truth.

Dr. Katju: I am telling of travellers of a thousand years ago. I am not mentioning British people. My hon. Friend seems to be very fond of British people. I do not want to take much time. I am speaking with some feeling upon this matter. What oppresses me today is that in the administration of justice—both civil and criminal—the most pressing problem is to awaken the social consciousness so that at least witnesses may not go and tell lies. You do not realize—I am referring to non-lawyer Members—the difficulty that we feel, particularly judges, is that the whole record is a record of lies. It is not the question of the jury system or the assessor system or any other system. The man is acquitted. I was told that in the Punjab—I do not know the figures—that about 95 per cent. of the prosecutions for murder ended in acquittal. I heard recently—I tell you from my horrifying experience—that a man was tried on a charge of murder. He was acquitted. I forgot whether he was acquitted by the Sessions Judge or on appeal by the High Court. One of his relations—the relation of this acquitted man—was murdered within a few days of his acquittal by a member of the family of the deceased. The police prosecuted them and the motive alleged was that this acquittal was wrong. The people were full of vindictiveness and they took their revenge by murdering. And would you believe it that the police actually produced as a prosecution witness, for proving the motive, the man who had been acquitted in the previous case? This man comes and swears solemnly: "I was tried; the charge against me was perfectly true; I had actually shot the man dead", and in so many words, and produced one or two relations of his who said this was correct. This man was guilty, but then he gave this version. Nothing could be done, because there is the general maxim that a man

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cannot be tried for the same offence twice over. So, in the first case,—I do not know what he had done, he may have pleaded alibi or he may have put up some defence—he was acquitted. This is what happened afterwards. In the Punjab, particularly,—hon. Members who come from the Punjab may know this—it is happening over and over again. It is a game of seesaw—murder and murder. People would not have it, would not stand it. If justice is not administered properly, they take the cudgel in their own hands and shoot.

Prof. D. C. Sharma: May I submit that the reference of the hon. Minister, to Punjab is not entirely justified.

Dr. Katju: You are only speaking from your knowledge of one district.

Shri Tek Chand (Ambala-Simla): My submission is that the hon. Minister is quite correct in saying that murder is going on there, and they go on from generation to generation. That is the point.

Dr. Katju: I do not want to raise any controversy here. What I was saying was that our system of administration of justice should be such as to stop this evil of perjury. And, how to do it? By awakening the conscience of the people and associating it in the administration of justice. One of the curses of the British rule that I feel today is that the people of India do not recognize a court of justice as their own.

An Hon. Member: Why not?

Dr. Katju: They recognize this Parliament as their own. They will growingly recognize it. They will recognize the Provincial Legislatures as their own. They will recognise that they can make ministries and unmake ministries, that the Ministers are their servants. Today, it may be a legacy of the past. But they say that the court of justice is not our own, and therefore it is permissible for anybody to go and tell lies. You

see there is an ordinary saying familiar to us. I am talking to A and B. "For god's sake, it is not the court of justice; tell the truth here." "It is not a court of justice!" —the court of justice is a place where lies are permissible! So, now, how to secure the people's consciousness in the administration of justice?

Shri B. S. Murthy (Eluru): What is the reason? Say it, before the remedy.

Dr. Katju: The reason is it is one of the curses of foreign domination, because it was supposed to be a court of justice run by the British authority, an alien rule; they say, do not go into that. We can discuss it afterwards. What have we done today? You have associated the ordinary man, the common man, the villager, the common man and woman, in the public field, in the making of laws, in the running of administration. But you say, well, that common man is not to be trusted when it comes to the question of a trial. I know what the opinion may be, and I know the opinion of lawyers. This is a matter which has been discussed by me with my friends for the last 25 years. But the way to look at it is this: we must associate the people, so that we may make the people feel that if a man is unjustly acquitted, it is their fault.

I had some hand in the administration of village *panchayats*. I drafted a law and had something to do about it in Uttar Pradesh. I am very glad to say that in U.P. in the last 9 months, so far as petty cases up to a limit of Rs. 200 and petty criminal cases are concerned, they had about two lakhs and forty thousand cases disposed of by these *panchayats* in these villages. There is no right of audience to lawyers and the *Panchayats* did the work. I think Mr. More might be very glad to hear that in 98 per cent. of the cases the judgments were upheld. As a matter of fact, there were no appeals in 94 per cent. of the cases. There is a provision about very simple revision,

Pandit K. C. Sharma: There is no provision for appeal.

Dr. Katju: Will you please, for God's sake, listen?

In 94 per cent. the judgments were accepted. In 6 per cent. cases there were revisions. And the revision has been made deliberately very wide. The sections say that you can apply to revisional court, the Divisional Magistrate or the Subordinate Judge or the Civil Judge. And, if that judge is satisfied that there has been irregularity and injustice, he cannot substitute his own decree. He must refer back the case to another *panchayat*; because we do not want to take away the burden from the *panchayats*. Of this 6 per cent. revisions 4 per cent. failed. Please remember that in 94 per cent. cases no revision application was filed and the judgments were accepted. In 4 per cent. cases revisions failed. Only in 2 per cent. cases, the courts said the cases should go back. (*Interruption.*) Conceive of the great benefit to the villagers of U.P. in these cases. If the cases had gone through the lawyers and the law courts, each case would have cost at least Rs. 100 by way of engaging *mukhtars*, *vakils* and summoning witnesses etc. All these 240,000 cases would have cost to the countryside somewhere about 3 crores of rupees. They have saved all this.

So, I come back to the point that you should associate the people. You must make the people feel that it is their court. I used to go to the country-side when we established *panchayats*. I told them, 'if you find there has been injustice, do not come to me, go and shoe-beat the *panches* who have done it.' In U.P. they say *Panch Parameswar*; the *panches* are Gods. It is a process. Very great, reliable and independent and influential men in the village do great justice in simple cases and they finish with it. They assemble under a pipal tree in the village. It is in the presence of the whole village and people will not be able to tell lies, they will not have the courage to tell lies. They tell lies in the courts because they come away from the villages,

say some 20 miles, they come to Delhi and tell lies with perfect liberty and the greatest freedom.

Please remember one thing more. My friend Mr. Ramaswamy referred to a volume of opinion, particularly in the legal profession and particularly among the Judges also that the Indian jury is corrupt and perverse. I think not. By God's grace we have got an absolutely first class judiciary here, independent, fearless and honest men of integrity. Do you know what happens in U.P.? I have got some figures. Out of 100 men ordered to be hung, by the Sessions Judge, in which there were appeals to the High Court, speaking broadly, one-third were acquitted. In the case of one-third, convictions were changed and sentences were commuted or reduced. And, the appeals were dismissed in the case of one-third. Now, no one has suggested that in the 33 per cent. of acquittals the Judge had been dishonest or the Judge had done nothing at all. They say, 'Well, opinions differ'. The Judge may go wrong; the High Court may go wrong. The Sessions Judge, in 75 per cent. of the cases, is so thoroughly dissatisfied with the evidence that he acquits. Now, no one says there that the acquittal is due to corruption or perversity or caste or provincialism. But if the jury were to acquit in such a case, everybody will say that the jury is perverse, the jury was in somebody's pocket, or the jury had been bribed, or as my hon. friend just now said that at half past nine of the clock he got a "not guilty" verdict, but if it had been the next morning the verdict would have been guilty.

This is the mental attitude in which we have fallen. I say we have not given a fair trial to the jury. I am prepared to go much further. Let the jury commit mistakes, but if people realise that they are doing justice, you will see after a slight deviation things will come right. Today we are living in a most unnatural state of affairs. I am speaking from knowledge because this is one of the fields where I have personal knowledge—I have worked for forty years in this line.

[Dr. Katju]

Everybody complains of cumbersome procedure, the defects of evidence—evidence is excluded, evidence is included, etc. Now what happens? The poor judge hears a case. He has got to deliver a judgment. He has to give his reasons. Those reasons go before the High Court and there with the assistance of competent counsels, that judgment is torn into pieces, this judgment is wrong, this technical defect, that technical defect, that particular bit of evidence was not admissible, etc., etc. People do not realise—this is one of the points on which one of the eminent barristers who has written a biography has laid the greatest stress—that one of the most beneficial rules is that the jury like an arbitrator is not called upon to give the reasons. It says either the man is guilty or not guilty. They hear the party, they watch his demeanour and say we believe him, or we do not believe him. Once you create an atmosphere of fear of God—people are God-fearing—that it is an anti-social thing not to do justice, we will improve the system of justice. Otherwise, what is that system of administration of justice in which 75 per cent. of the cases prosecuted result in acquittal? Either your police investigation is utterly dishonest and incompetent, or if the police investigation is efficient, then the guilty man escapes. And please remember that I have never subscribed to the maxim that nine guilty men may escape rather than one innocent man should suffer. I entirely agree that no innocent man should suffer; but today the unjust escape of one guilty man is a thing to be condemned and we cannot possibly have it.

In the murder cases, the ordinary experience of people at the bar is that most of them are true cases, but the culprits get away because of technical defects, misjoinder of charges. People are saying lots of things about the jury: no one says anything about the defence.

Shri M. L. Dwivedi: (Hamirpur Dist.): What are you doing to remedy this?

Dr. Katju: I am going to tell you. My hon. friend has put me this question. As a matter of fact here is this file. . .

Shri B. S. Murthy: What is that?

Dr. Katju: I expect to be able—or Government expects to be able—to lay before this House in its autumn session—I am talking of the autumn session, not the winter session—about the 15th of November, concrete proposals covering the entire field of administration of justice and I welcome the assurance given by my hon. friend Mr. Chatterjee that he will extend his co-operation to me. So far as this matter is concerned, it is not a party matter. To whichever party we may belong, we are all interested in the purity of administration of justice. The All-India Congress Committee passed a resolution that the administration of justice in India is expensive, dilatory and cumbersome. These are the three main heads. And I do hope that the House will have before it proposals, covering both the civil administration and criminal administration of justice, which will be directed to remove these three evils. I shall then come here and ask for co-operation, the largest possible co-operation. And I am hoping that there will be the fullest co-operation, because there will be no question of any party feeling on that matter and that we will be able to bring on the statute book the necessary modifications and additions so that our administration of justice may be made as perfect as we can make it, say, by the close of the financial year. That is what I am willing to do. We have been working hard on it. And all these things will come.

But this Bill may go for circulation for eliciting public opinion. But I will only beg that when this Bill goes for circulation, the hon. judges of the High Courts, the bar associations in the several provinces, and lawyers and every citizen would bear in mind these larger considerations. That is why I have welcomed this Bill.

It is not a question of having any preconceived notions—juries from the

same caste, juries are perverse, juries are corrupt, juries are bribed—which, I tell you, about 95 per cent. is absolutely untrue. Do not be unkind to the jury. You may make improvements in the system of administration. If you ask me—I do not want to go into details—the greatest defect today outside the presidency towns is—I am not speaking with knowledge of Bengal but with knowledge of U.P. and other provinces—the judges do not know how to handle juries, because they are not accustomed, they do not know. We have six districts in U.P. in which the jury system prevails. There are big cities like Kanpur, Allahabad. But there is a judge, say, at Aligarh or Bareilly who has never handled a jury, who does not know how to put the case before the jury, how to guide the jury, how to charge the jury. He goes to Allahabad and the jury comes before him. It is there that it is a case of human relation.

You have to read the charges to the jury by the British judges, and you see how tactfully they handle and guide them. Every minute they say: you are the judges of facts, but I am also an experienced man, treat me as the thirteenth man of the jury, do this, do that. They create that atmosphere.

We have got to take all that into consideration, selection of juries, what is called the 'locking up' of juries so that they may not be open to external pressure. All that has to be done.

One thing which I hate is an appeal in a case which turns upon evidence. The Appellate Judges have to proceed on the basis of a dead record, they have not seen the witnesses, how they have given evidence. Sometimes judges know—my hon. friend Mr. Chatterjee will know—it depends upon the twinkling of the eye of the witness, the smile, how he looks, whether he hangs his head. You cannot get it on paper.

Sir, I will not take longer time of the House. I support the motion for circulation, and I am pleading in advance for the co-operation of all sides of the House in the consideration of

the proposals which will be put before the House—that is a matter of definiteness—in the autumn session, covering the entire field of judicial administration.

1 P.M.

Shri S. V. Ramaswamy: Could we have the views of the hon. Law Minister as well on this Bill?

Shri Biswas: I do not know why my hon. friend should be so anxious to know the views of the Law Minister. The Home Minister has spoken on behalf of the Government and the views he has expressed are shared by the Law Minister. Between us both, we are doing our best to evolve some proposals which will certainly improve the existing system of administration, which will make it expeditious, which would make it cheap and which would make it simple. There is no doubt about that. So far as the jury system is concerned, that would be a part of the larger system. There is no doubt about that also.

The present Bill which is proposed to be circulated is limited to this question of jury system. The jury system has had a long past. We know how it originated in England. We know how it is claimed to be the birth-right of every Englishman. We know also how it is functioning during all these years. It will be a travesty of truth to say that the jury system has been tried and found wanting in this country. It is perfectly true that the system has been introduced in its present form from the British. But, because it is British, let us not condemn it simply on that ground. Let us examine the system for ourselves and find out how, in the conditions which have so far prevailed in this country, it has passed the test. I do not know of any human institution which can claim to be free from imperfections. The jury system has been tried only or mostly in connection with criminal cases in this country. We ought to judge it by the results that we have seen in connection with criminal trials. Now, my experience is limited in that field.

[Shri Biswas]

But, with the little experience that I have had both as a member of the Bar and as a member of the Bench, I am not prepared to say that in Bengal the jury system has failed. I know that there have been districts where complaints were made by the District judges that the jurors were a perverse lot, were a corrupt lot and therefore the system of jury should be abolished in that district. The matter came before the High Court and it was considered. But, the High Court hesitated before pronouncing in favour of abolition. As a matter of fact, there may be some districts, some places, where the people who act as jurors might be open to other extraneous pressure, influence and so on. Every care is taken in the selection of jurors; there are ordinary jurors, there are special jurors and so on. Every attempt is made to choose men of sufficient education, men of known integrity, men who do their duty in the way in which it should be done. But, there may be cases where in spite of the best endeavour, you may have been unhappy in the selection of jurors. Because in certain cases some jurors have gone astray, it is not right to condemn the whole system or to say that every juror must be a dishonest fellow.

Shri R. K. Chaudhury: On a point of information, Sir, may I ask the hon. Minister if it is not a fact that in most of the cases where the decision of a jury has been set aside, it is due to the misdirection of the Judge and not due to any fault of the jury?

Shri Biswas: I will not dogmatise; I will not give a general verdict. Certainly where appeals are successful in criminal cases, it will be found that they succeed only on the ground of misdirection.

Shri R. K. Chaudhury: By the Judge.

Shri Biswas: By the Judge. Therefore, what I was going to suggest was that merely because in certain cases a panel of jurors have given a verdict which is not acceptable, it would be

wrong to say that must be a perverse verdict. The Judge may also go wrong. As a matter of fact, in these appeals which succeed, it is found that the Judge misdirected the Jury on points of law. Similarly, it is quite possible that the jurors might take a view regarding the facts which may not commend itself to another tribunal. It does not follow, however, that they are dishonest or corrupt, that they were doing something which they ought not to have done. The whole question is this. On questions of fact, whom should you like to be tried by? By men who know you and whom you know, in whose judgment you have confidence, or by somebody who will be guided possibly more by his legal learning than by an appreciation of the facts of the case? If you have men in a tribunal who would guide the jurors on questions of law, and a different set of men who will be the ultimate judges of fact, do you not get a tribunal from which the greatest measure of justice can be expected? That is the jury system. There are both sides to the question. I have in my hands a book. I think most of hon. Members are aware of it. My hon friend Mr. Chatterjee must know it. It is a book which was written by the late Sir Manmatha Nath Mukherjee, one of the greatest criminal lawyers of Bengal. It is a treasure house of information.

Shri S. V. Ramaswamy: What is the name of the book?

Shri Biswas: "Trial by Jury and Misdirection". It gives you a complete history of the system of jury trial not merely in India, but in other countries. You will find elaborate extracts from American jurists, English jurists and jurists of other countries, and both sides of the question have been discussed dispassionately. It is a book which I would recommend to all hon. Members, to all those who are interested in the future of jury trial in this country. You will find a mine of information there, and it is highly constructive and educative.

Therefore, this is a system which has its merits, and which has its demerits. We have got to weigh one against the other, and we have to judge the success or the failure of the system in the background of the actual social conditions which prevail in the country. What may be good today may not be good tomorrow. What may be good in one country may not be good in another country. So, you have got to judge this in this light. As my hon. colleague has said, after all whatever the system, whatever the tribunal you set up for the administration of justice, the first *sine qua non* is this, that there must be a high degree of social conscience developed, so that those who assist the Courts and the tribunals—whether the tribunal is composed only of a Judge or of a Judge and a jury—by giving evidence are men on whom you can rely with absolute confidence. That is what I have to say. I have nothing more to add.

Shri Raghunath Singh (Banaras Distt. Central): What about the assessors?

Shri Biswas: So far as the assessors are concerned, the experience of the system of trial by assessors has not been quite happy.

Shri S. V. Ramaswamy: I accept the Motion for Circulation.

Mr. Chairman: I put the motion to the vote of the House. The question is:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st December, 1953."

The motion was adopted.

Mr. Chairman: Let us proceed to the next Bill. There are ten minutes yet.

Several Hon. Members: Only five minutes.

DOWRY RESTRAINT BILL

Shrimati Uma Nehru (Sitapur Distt. cum Kheri Distt.—West): I beg to move:

"That the Bill to restrain the custom of taking or giving of dowry in marriages, be taken into consideration."

जनाब चेयरमैन साहिब, आज एक मुद्दत के बाद गालिबन् दो साल के बाद और बहुत इन्तज़ार के बाद यह दहेज की प्रथा का बिल में आप के और हाउस के सामने पेश कर रही हूं। मुझे पूरा विश्वास है कि इस बिल को हाउस बख़ूशी मंज़ूर करेगा। स्त्री जाति में बराबर एक हलचल मची हुई है, उस का हृदय व्याकुल व परेशान है और उस की स्वाहिश है कि वह समाज में ज़बर्दस्त परिवर्तन करे ताकि वह भी एक इंसान की नाई बसर कर सके। आज कल जो भी समाज में परिवर्तन हुए हैं वह संतोषजनक नहीं हैं। क़ानून के हिसाब से स्त्री की स्थिति में कोई परिवर्तन नहीं हुआ है और जो हुए भी हैं वह निहायत सुपर-क्रिशियल हैं और नतीजा यह है कि आज के दिन भी स्त्री की बेसिक पोज़ीशन वंसी ही है जैसी कि श्री मनु के समय में थी। इस समय में नहीं चाहती कि मैं स्त्री समाज का इतिहास आप लोगों को सुनाऊं। इतना ही कहना चाहती हूं कि स्त्री के भी हृदय और दिमाग़ है, और एक इंसान के नाते उस की भी स्वाहिशें हैं और स्त्री चाहती है कि समाज में लोग उस को भी इंसान समझें। हमारी समाज ने स्त्री के साथ जो अन्याय किया है वह तक्रलीक़देह है। हमारे देश में सामाजिक उन्नति तब तक सम्भव नहीं है जब तक हम हर एक के साथ एक सा बर्ताव नहीं करते, समाज में कोई ऊंच नीच न हो, और कोई छोटे बड़े का भेद न रहे, उसी दशा में समाज उन्नति कर सकता है और

[श्रीमती उमा नेहरू]

वही समाज आदर्श समाज होता है। समाज की ऐसी दयनीय अवस्था देख कर हमने बहुत परिश्रम के बाद इस संसद के सामने हिन्दू कोड बिल रक्खा ताकि स्त्री के बन्धनों को तोड़ दें और स्त्री को फिर से आजाद करें।

Shri R. K. Chaudhury (Gauhati):
On a point of information, Sir...

Some Hon. Members: Hindi please.

श्री आर० के० चौधरी : आप को मालूम होगा कि आजकल बहुत से नौजवान मुंह से तो यही बोलते हैं कि हम डाउरी नहीं लेंगे, लेकिन वक्त पर सब डाउरी ले लेते हैं, बल्कि डाउरी का बाबा ले लेते हैं, क्या आप को इस की खबर है ?

श्री यू० एम० त्रिवेदी (चित्तौड़) :
डाउरी का बाबा क्या होता है ?

श्री आर० के० चौधरी : दस गुणा चीज लेता है।

Shri Gadgil (Poona Central): Is that Parliamentary? (Interruptions)

Mr. Chairman: Order, order, let the hon. Member proceed.

श्रीमती उमा नेहरू : जैसा आनरेबुल मेम्बर ने डाउरी के बारे में बतलाया, मैं उन से ज्यादा इस बारे में जानती हूँ, जो नौजवान लड़के डाउरी लेते हैं, वह उनके जो वालिद होते हैं या बाबा कहिए या पिता कहिए, उन के कहने पर लेते हैं।

रक्षा संगठन मंत्री (श्री त्यागी) : जिन की शादी हो चुकी है वह ऐसा कह सकते हैं, जिन लड़कों की शादी नहीं हुई है उन को डाउरी जरूर मिलना चाहिए।

सभापति महोदय : आर्डर, आर्डर, मैं जानना चाहता हूँ कि क्या आनरेबुल मेम्बर और ज्यादा वक्त इस के ऊपर लेंगी ?

श्रीमती उमा नेहरू : जी हाँ।

Mr. Chairman: The hon. Member may then continue on the next day.

The House then adjourned till a Quarter past eight of the clock on Tuesday, the 1st September, 1953.