

Friday, 10th March, 1950



PARLIAMENTARY DEBATES

(PART I—QUESTIONS AND ANSWERS)

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PARLIAMENTARY DEBATES
(PART I—QUESTIONS AND ANSWERS)

Friday, 10th March, 1950

The House met at a Quarter to Eleven of the Clock

[MR. SPEAKER in the Chair]

ORAL ANSWERS TO QUESTIONS

FILMS CENSORED BY STATE GOVERNMENTS

***759. Shri Sidhva:** (a) Will the Minister of Information and Broadcasting be pleased to state how many films have been censored by various State Governments since the Cinematograph (Second Amendment) Act, 1949 (Act LXII of 1949), passed in the last session of the Legislature, came into force?

(b) What are the names of the films from foreign countries, not passed for exhibition by the Licensing Board from April upto-date?

(c) Is it a fact that certain films have been banned by State Governments although they have been in exhibition since long and if so, what are the reasons for banning such films?

The Minister of State for Information and Broadcasting (Shri Diwakar):

(a) Act LXII of 1949 has not yet come into force.

(b) and (c). Information is being collected and will be laid on the Table of the House.

Shri Sidhva: Sir, may I know whether any films named, "The Triumph of Youth" and "Stone Flower" containing propaganda for good health and meant to be shown to school children were banned?

Shri Diwakar: I have no information, Sir.

Sardar Hukam Singh: May I know the number of films that were passed by one State and rejected by another State?

Shri Diwakar: Exactly, this information has been called for.

Shrimati Durgabai: May I know, Sir, when the censorship board contemplated will be appointed?

Shri Diwakar: That comes in another question.

Shri Sidhva: Are the names of the films banned in any State communicated to the Headquarters here or not?

Shri Diwakar: The Provincial Boards do the business and therefore, they are not supposed to inform us.

Shri Joachim Alva: Will Government at least co-ordinate matters in such a way that films shown in one State are not banned in another State and not shown again elsewhere?

Shri Diwakar: That is the purpose of the new Act.

INSPECTION OF SCHEDULED BANKS

***760. Shri Sidhva:** (a) Will the Minister of Finance be pleased to refer to my Starred Question No. 444 answered on 17th February, 1949, and state how many banks were inspected during the years 1947, 1948 and 1949 upto-date, and what are the names of the banks?

(b) Were notices given to banks whose financial conditions were not found favourable and if so, with what result?

The Minister of Finance (Dr. Matthal): (a) The number of banks inspected from 1947 to January 1950 is 62. It will not be in the public interest to disclose the names of the banks inspected.

(b) Those banks whose financial position and methods of operation were not considered satisfactory but capable of rectification were advised to rectify the defects by implementing certain conditions imposed upon them and were required to submit periodical returns in prescribed forms to enable the Reserve Bank to watch their progress.

Shri Sidhva: Sir, may I know how many out of these 62 banks did the Reserve Bank find to be not in sound condition? I want their number.

Dr. Matthal: It is very difficult to answer the question in that precise form, because the reports give a detailed account of specific matters in respect of which irregularities have taken place. But whether in view of the irregularities detected in a particular case you can describe the whole position of the bank as unsound is a rather difficult question.

Dr. Deshmukh: Sir, is this inspection a sort of normal routine, or is it undertaken only in the case of banks whose finances are not sound?

Dr. Matthal: That has been the practice so far. I will explain the position. Before the Banking Companies Act was introduced, the Reserve Bank carried out inspections only from the point of view of determining whether a bank should be put on the scheduled list or should be retained in the scheduled list. Now, under the Banking Companies Act, the Reserve Bank has power to initiate inspection for the purpose of generally determining whether the work of the bank is satisfactory from the point of view of the depositors.

Shri Joachim Alva: The hon. Finance Minister says in his reply to (a) that he cannot disclose the names of the banks which have been inspected. How does that statement reconcile itself with the statement appearing in the newspapers today that the Reserve Bank ordered yesterday the inspection of a number of banks and the names of the banks are given?

Dr. Matthal: If the hon. Member is referring to the banks in Calcutta in respect of which an amalgamation scheme is in operation, that he will appreciate, is a very different matter.

Shri Joachim Alva: No, the names are of big leading banks in Bombay, they are not mixed up with the other banks at.....

Mr. Speaker: Order, order.

VOLUNTARY SAVING BY ARMED FORCES

*761. **Shri Sidhva:** (a) Will the Minister of Defence be pleased to state whether in pursuance of the Government's policy any compulsory saving has been made in the Armed Forces of India?

(b) If so, what class of staff has subscribed and from what month?

(c) What is the total saving per month?

The Minister of Defence (Sardar Baldev Singh): (a) Yes.

(b) All personnel (both Service and civilian) of the Armed Forces whose pay exceeds Rs. 250 per month have subscribed with effect from the 1st January 1950 (i.e., pay or leave salary drawn for the month of December, 1949).

(c) Rs. 5,74,888/8/-.

Shri Shiva Rao: Will the hon. Finance Minister state whether it is a compulsory saving or whether it is a voluntary one? It is not given here in the head not to the question.

Mr. Speaker: No, that is only a short note given by the office.

Shri Shiva Rao: No, Sir. I only want to know whether the amount to be deducted from an officer's pay is left to him to determine or is it according to any proposal laid down by the hon. Minister.

Sardar Baldev Singh: It was laid down by the Government, and the proposals that have been made by the Finance Ministry have also been applied to the Defence Services.

Shri Shiva Rao: May I know, Sir, whether in fixing the amounts to be deducted, the capacity of the officer to live on what is left is also taken into account?

Sardar Baldev Singh: This is a uniform scale and applies to all classes of officers without any distinction between civil and military officers. Naturally their capacity is taken into consideration, and I am glad all the officers have subscribed to it.

Shri Frank Anthony: May I know, Sir, whether this compulsory cut has added to the financial difficulties, particularly of the officers?

Sardar Baldev Singh: It might have added; but the House should remember that this is not a cut; we are deducting this amount which is then credited to the account of the officer and will be paid to him after a certain period.

Shri Frank Anthony: Sir, is it a fact that the heads of all the Armed Forces have brought it to the notice of the Ministry that the low salaries of the officers have already started demoralisation among the officers?

Mr. Speaker: Order, order.

Shri Frank Anthony: I only want to know whether this has been brought to the notice of the Ministry.

Mr. Speaker: The hon. Member's question is practically a representation on behalf of certain dissatisfied personnel and the question contains only suggestions and inferences and I cannot allow it.

Shri R. K. Chaudhuri: Sir, is it not a fact that due to this cut these officers will be more indebted to private persons and therefore their discipline will be impaired?

Mr. Speaker: Order, order.

Pandit Krishna Chandra Sharma: Have not Government received complaints that on account of this cut, the officers have been hard hit?

Kanwar Jaswant Singh: Does this scheme apply to the Indian States?

Sardar Baldev Singh: The Indian States Forces will come under our control from the 1st April this year, and this scheme has been, I believe, intimated to the different State units, and I hope they will introduce this scheme among them. But I cannot definitely say now.

Shri Joachim Alva: With regard to the exemption given to the Army in the matter of prohibition, will this tend to compulsory or voluntary saving?

Mr. Speaker: Order, order.

FAST BY DETENUS

*762. **Shri Kesava Rao:** (a) Will the Minister of Home Affairs be pleased to state the number of persons detained under the orders of the Government of India who have undertaken a fast for payment of allowances to their families?

(b) Have Government considered their demands and if so, what action has been taken in the matter?

The Minister of Home Affairs and the States (Sardar Patel): (a) Seventeen detenues detained under the orders of the Delhi administration had gone on a hunger-strike. The payment of family allowance was only one of a long list of numerous impossible demands made by them.

(b) Government declined to consider any of the demands under the coercion of a hunger-strike.

Shri Kesava Rao: Sir, what is the maximum and minimum family allowance given to the detenues?

Sardar Patel: What was the question?

Mr. Speaker: He wants to know the maximum and minimum allowance given to the detenues.

Sardar Patel: It depends on individual cases. The maximum as daily allowance they have asked for is Rs. 4 a day, but normally the average paid is Rs. 2/8/- per day.

Shri Kesava Rao: I wanted to know whether any family allowance is given.

Sardar Patel: Yes, in deserving cases. Family allowance is given in deserving cases.

Shri Kesava Rao: In how many cases was family allowance allowed during this year?

Sardar Patel: Two cases.

Shri P. G. Sen: What is the highest amount that has been paid to a family?

Sardar Patel: Rs. 75.

Shri Deshbandhu Gupta: May I know whether it is a fact that detenues in the Punjab and P.E.P.S.U. and also in Bengal are being treated more liberally than the detenues of the Government of India in respect of family allowances, diet allowances as well as in respect of certain other facilities, if so, whether Government have taken note of this fact?

Sardar Patel: Different provinces have got different scales and therefore there is this variation.

Dr. M. V. Gangadhara Silva: May I know what is a genuine fast and a fast which is not genuine and to which fast Government would give consideration?

Mr. Speaker: Order, order.

Shri Deshbandhu Gupta: May I know whether it is not a fact that so far as the Delhi Jail is concerned, it is governed by the Punjab Jails rules and the I.G.P. Punjab himself supervises the administration of the Delhi Jail; in view of this and also in view of the fact that economic conditions do not vary very much between Delhi and P.E.P.S.U. or the Punjab, have Government considered the desirability of bringing the Delhi Detenus rules also in line with those of the Punjab or conversely the Punjab rules in line with those of Delhi, as the present position creates difficulties in administration?

Sardar Patel: No, it is not so. Conditions are different in the Punjab jails. The rules are being reconsidered.

Shri Tyagi: May I know how these allowances are paid, whether it is on application received from the detenus, or does it depend on the financial condition of the family?

Sardar Patel: Not necessarily on application. It depends on the financial condition of the detenus. There are detenus whose financial condition is so good that they do not want anything. And sometimes the condition of their families is such that Government make provision for them.

Shri Kannamwar: May I know about the position in the Nagpur Central Jail?

Mr. Speaker: That is a question for the State and not for the Government of India.

Shri Brajeshwar Prasad: How many detenus applied for family allowances?

Sardar Patel: I have no information on the subject at present.

Shri Deshbandhu Gupta: Would the hon. the Deputy Prime Minister be pleased to state in what respects the circumstances in East Punjab and Delhi differ?

Mr. Speaker: Order, order. He is arguing on the question now.

Shri Deshbandhu Gupta: I only wanted to know the difference.....

Mr. Speaker: I can understand the desire of the hon. Member to know this, but that does not come within a legitimate question. This is more or less an argument.

Shri Tyagi: May I know what is the policy of the Government in giving family allowances? Such families as deserve help, are they being helped?

Sardar Patel: I have already stated that in deserving cases Government gives allowances.

W. H. O. TEAMS

- *768. Dr. M. M. Das:** Will the Minister of Health be pleased to state:
- how many different organisations or demonstration teams have been sent by World Health Organisation to India in 1949; and
 - the expenditure incurred by Government for each one of these teams?

The Minister of Health (Rajkumari Amrit Kaur): (a) and (b), A statement is placed on the table of the House. [See *Appendix III, annexure No. 47.*]

Dr. M. M. Das: May I know whether it is the policy of the Government to raise the health standard of the public of this country by bringing demonstration teams from abroad?

Rajkumari Amrit Kaur: By bringing in these teams we not only carry out work which is very essential but we also give a chance to our own people to be trained, and we get a very great deal of not only technical but financial aid.

Dr. M. M. Das: May I know whether these demonstration teams have come to this country to impart training to the medical men of our country in those particular subjects?

Rajkumari Amrit Kaur: These teams show to our people as to how best to combat diseases.

Dr. M. M. Das: May I know whether it is the opinion of the Government that there is a dearth of medical men qualified in those subjects and is it because of that that these demonstration teams have come?

Rajkumari Amrit Kaur: There is a dearth of such technical personnel as are being sent to us by the World Health Organisation.

Thakur Krishna Singh: May I know what work has been done by these teams and in what areas?

Rajkumari Amrit Kaur: I have already laid a statement on the Table of the House giving details of what these teams have done.

Dr. M. M. Das: What is the total expenditure on these teams?

Rajkumari Amrit Kaur: That too is given in that statement. As far as the Government of India and the State Governments are concerned, in the year 1949 the expenditure was in the neighbourhood of Rs. 4 lakhs, but the expenditure by the World Health Organisation was in the neighbourhood of Rs. 10½ lakhs.

INHABITANTS AND GOVERNMENT SERVANTS IN ANDAMAN AND NICOBAR ISLANDS

***764. Dr. M. M. Das:** Will the Minister of Home Affairs be pleased to state:

(a) the total number of inhabitants of the Andaman and Nicobar Islands; and

(b) the total number of Government employees in those islands?

The Minister of Home Affairs and the States (Sardar Patel): (a) 81,600.

This excludes aborigines whose exact number is not known but is believed not to exceed 5,000.

(b) 1,882.

Dr. M. M. Das: May I know whether all these Government employees are engaged in civil administration in these islands or on some other duties?

Sardar Patel: There is no other employment. They are all in government service and that in civil employment.

Dr. M. M. Das: May I know what percentage of these Government employees belong to the Armed Forces?

Sardar Patel: Not in the Andamans.

Shri P. Basu Reddi: What is the area of these islands?

Mr. Speaker: That can hardly be a question to put in this House.

Shri R. K. Chaudhuri: Are there any aboriginal inhabitants amongst these Government employees? Have any local people been taken?

Mr. Speaker: Order, order.

Dr. M. M. Das: May I know whether any attempt has been made or is being made by the Government to exploit the natural resources of these islands?

Sardar Patel: Natural resources? That is not for me to answer.

Mr. Speaker: It hardly arises out of this question also.

Kanwar Jaswant Singh: In connection with the answer to part (a) of the question, may I know how many of them are refugees?

Mr. Speaker: This question about refugees has been asked several times in this House.

CENTRAL FILM CENSORSHIP BOARD

*765. **Shri Kesava Rao:** (a) Will the Minister of Information and Broadcasting be pleased to state whether there is any proposal to appoint a Central Film Censorship Board?

(b) If so, when is it to be appointed?

(c) How is the Board to be constituted?

The Minister of State for Information and Broadcasting (Shri Diwakar):

(a) Yes, Sir.

(b) and (c). The matter is under consideration.

Shrimati Durgabai: What is the budget estimate for this Board?

Shri Diwakar: It will come under "Demands".

Shrimati Durgabai: May I know whether it is proposed to constitute Regional Boards also with the Central Censorship Board?

Shri Diwakar: It will be according to the Act that has been passed.

Shri Lakshmanan: Will the Central Board represent all the languages given in Schedule VIII of the Constitution?

Shri Diwakar: All these matters are being taken into consideration.

Shrimati Durgabai: May I know where it is proposed to be located?

Shri Diwakar: The central office will be in Bombay.

Shri Tirumala Rao: May I know the composition of this Film Censorship Board, whether it will consist of one person, three persons or five persons?

Shri Diwakar: This will be in accordance with the Act and according to the elucidation given by me at the time of the passing of the Act.

Shri Tirumala Rao: My question has not been answered. Does the Minister know his own mind of what he is going to do?

Mr. Speaker: The hon. Member need not pass these remarks. He has directed the hon. Member to the Act passed.

Shri Deshbandhu Gupta: May I know whether Government would have women members on this Board or not?

Shri Diwakar: Yes, women, educationists and so on.

Dr. Deshmukh: May I know the reasons for the delay in appointing this Board?

Shri Diwakar: It is because certain procedures are to be followed. The Board has to be set up, financial sanction has to be obtained, and all these things have to be gone through.

Shri Alagesan: At the time of the discussion on the Bill the hon. Minister said that he was going to constitute regional boards. Does he propose to do it now?

Shri Diwakar: I shall exactly follow what has been laid in the Act.

Shri Brajeshwar Prasad: How long do Government intend to take in following these procedures?

Shri Diwakar: Exactly the time that is necessary.

EXPENDITURE IN MINISTRIES

*767. **Sardar Hukam Singh:** (a) Will the Minister of Finance be pleased to state the amounts sanctioned by the Ministry of Finance as supplementary grants for the current financial year on account of fresh expenditure not provided in the original Budget under the following heads:

- (i) Assistant and Under Secretaries;
- (ii) Deputy Secretaries;
- (iii) Joint Secretaries;
- (iv) Additional Secretaries;
- (v) Secretaries; and
- (vi) Ministerial?

(b) Have any limits been laid down for each category in order to have effective control over expenditure by various Departments?

The Minister of Finance (Dr. Matthal): (a) The Ministry of Finance are not competent to sanction supplementary grants which have to be voted by Parliament. A statement giving the information required by the hon. Member for supplementary grants already voted by the House is laid on the Table.

(b) No, Sir.

STATEMENT

Department/ Ministry	Category of Personnel	No.	Amount provided by Supplementary grant for pay and allowances.	Remarks
Parliamentary Affairs	*Secretary	1	Rs.	*Not comparable to post of Secre- tary in a Minis- try.
	P.S. to H. M. Ministerial	1	14,500	
Works, Mines & Power	Deputy Secretary	1	20,000	**Status of Depu- ty Directors in C.W. I. N. C.
	**Officer on Special Duty	2	37,000	
	Superintendent Ministerial	2	41,300	

CHECK ON EXPENDITURE IN MINISTRIES

*768. **Sardar Hukam Singh:** Will the Minister of Finance be pleased to state the checks exercised over Departments against growth of unnecessary expenditure in the Central Secretariat?

The Minister of Finance (Dr. Matthal): Expenditure can be incurred only subject to the budget provision and under the powers delegated to the various authorities. All expenditure in excess of the budget provision or the powers delegated to the spending authorities can be incurred only with the sanction of the Finance Ministry. All proposals for New Services and for the expansion of existing services involving non-recurring expenditure exceeding Rs. 5 lakhs or recurring expenditure exceeding Rs. 1 lakh are scrutinised by the Standing Finance Committee. All proposals necessitating supplementary grants are also subject to the scrutiny of that Committee. This secures an effective check on unnecessary expenditure.

WAR SERVICE CANDIDATES

*769. **Sardar Hukam Singh:** Will the Minister of Home Affairs be pleased to state Government's policy regarding the appointment of the war-service candidates in the temporary civilian posts?

(b) Are there any vacancies reserved for these candidates in the permanent posts of the Government?

The Minister of Home Affairs and the States (Sardar Patel): (a) and (b). No preference is now accorded to War Service Candidates for employment in temporary civilian posts and no vacancies are reserved for them. They must, therefore, take their chance with other candidates.

Sardar Hukam Singh: Is it a fact that some of the war-service candidates were absorbed in the Railway Clearing Accounts Office, that the scale given to them was according to the recommendations of the Central Pay Commission and that that scale has since been withdrawn from them?

Sardar Patel: I do not know anything about it. I will require notice of that question.

Sardar Hukam Singh: Is it a fact that some of them have even now been asked to refund what they had previously drawn according to the original scales given to them?

Sardar Patel: I have no information.

Sardar Hukam Singh: May I know whether at the time of retrenchment the service that these men have rendered in the army would be considered in calculating the period of their service?

Sardar Patel: The reservations were made for approved war-service candidates. Their vacancies have been filled according to the proportion reserved for them. All those cases had been exhausted by appointments in 1947-48. There is no case of war-service candidates now. They must take their chance with other candidates for appointments.

Sardar Hukam Singh: I wanted to know what was the policy of the Government with regard to retrenchment: whether in retrenching the war-service personnel their service in the army would be included in their length of service and that they would not be considered as having been appointed anew in their posts.

Sardar Patel: If my hon. friend wants any information on the subject and if he puts down a specific question I will enquire about it. I have no information about any war-service candidates having been retrenched.

Shri Frank Anthony: The answer to part (b) as I understood was that no war-service candidates had been accorded preference for temporary civilian posts.....

Sardar Patel: There was no reservation for temporary posts.

Shri Frank Anthony: Is it not a fact that Government had recognised the undertaking given by the former administration that 70 per cent. of the permanent posts will be reserved for war-service candidates?

Sardar Patel: For permanent vacancies there was reservation. I do not think there was any reservation for temporary vacancies. The reservation was not extended to any vacancies arising after the 31st March 1945. For such vacancies in classes I and II arising in 1946-47 war-service candidates within the normal age limits were grouped with other candidates within the normal age limits and all those vacancies have been filled up.

Shri R. Velayudhan: May I know whether I.N.A. personnel are considered as war-service candidates?

Sardar Patel: They have been given special treatment under special circumstances.

FELIKS TOPOLSKI

*770. **Shri Kamath:** Will the Minister of Education be pleased to state:

(a) whether an artist named Feliks Topolski has recently come to India at the invitation of Government;

(b) If so, for what purpose; and

(c) how much he has been paid so far by Government?

مسٽ آف ايجوڪيشن (مولانا آزاد) : (اے) کا جواب هاں ہے -

(بی) گورنمنٹ آف انڈیا نے اس آرٹسٹ کی ایک پینٹنگ خریدی ہے - یہ ۱۲ × ۸ فٹ کے سائز پر کھینچی گئی ہے اور اس میں مہاتما گاندھی کی موت کو ایسی حالت میں دکھایا گیا ہے کہ تمام ایشیا اسکا سوگ منا رہا ہے -
اس خیال سے کہ اس تصویر؛ و اچھی حالت میں ہندوستان تک پہنچا دیلے کی ذمہ داری آرٹسٹ کے ذمہ رہے اور اسکے قلم سے یہاں ایسے ایک آخری تچ مل سکے یہ بات مناسب سمجھی گئی کہ اسے ہندوستان بلایا جائے -

(س) تصویر کی قیمت ۷۵۰ پونڈ دیگئی - پیکنگ انشورنس اور کرایہ کے لئے ۱۷۰ پاونڈ اور خرچ ہوئے - آرٹسٹ کا سفر خرچ ۲۵۰ پاونڈ ہوا -

The Minister of Education (Maulana Azad): (a) Yes.

(b) The Government of India have acquired a painting of the artist of size 12×8 feet depicting the death of Mahatma Gandhi in a symbolic way with all Asia mourning. In order to avoid any damage to the painting in transit and to give some finishing touches to it after its travel for such a long distance and to hang it properly, the artist was invited to visit India.

(c) Apart from a sum of £750 paid to Mr. Topolski as the price of the painting, an expenditure of £170-0-7d. has been incurred for the packing, insurance, and freight, etc., of the painting from the United Kingdom to Bombay. In addition, a sum of £250 has been paid to Mr. Topolski for his visit to India and back.

श्री कामत : इस चित्रकार की कलाशैली की खासियत क्या है ?

Shri Kamath: What are the outstanding peculiarities of this artist?

Mr. Speaker: That is hardly a question which the hon. Minister can answer.

Shri Kamath: I wanted to know what made Government pay so much for a picture made by this artist?

Mr. Speaker: You mean what was its special feature?

Shri Kamath: Yes, Sir.

प्राइम मिनिस्टर (श्री जवाहरलाल नेहरू) : अगर इजाजत हो तो मैं जवाब दूँ, खासियत तो मैं जानता नहीं, हैसियत मैं बतलाये देता हूँ। यह आर्टिस्ट मशहूर आर्टिस्ट है यूरोप में और अमरीका में। इस खास तस्वीर को आप सब साहबान देख सकते हैं यह गवर्नमेंट हाउस में इस वक्त मौजूद है इस तस्वीर के उन १ जो दाम हमने दिये उस से काफ़ी ज्यादा दाम मिल रहे थे, लेकिन उनकी स्वाहिश थी कि वह हिन्दुस्तान आए और हमारी भी स्वाहिश थी कि यहाँ आए, इसलिये लाई गई।

The Prime Minister (Shri Jawaharlal Nehru): With your permission, Sir, I may answer this question. I do not know the particular peculiarities but I

can tell about the status of the artist. He is a very famous artist and is widely known in Europe and America. The picture in question is in Government House at present and the hon. Members can see it there. He was offered a much higher price for the picture than we have paid him but as he wished that the picture should remain in India and as we also wanted to have it here so it was brought here.

श्री कामत: इस कलाकार के अलावा गवर्नमेंट ने हिन्दुस्तानी और भारतीय कलाकारों को क्या प्रोत्साहन अभी तक दिया ?

Shri Kamath: Except this artist what patronage the Government have so far extended to the Indian artists?

DEVELOPMENT OF HINDI

*771. **Shri Indra Vidyavachaspati**: Will the Minister of Education be pleased to state whether Government have formulated any plan for the development and popularisation of the Hindi language as envisaged in Article 351, Chapter XVII of the Constitution of India and if so, whether any action has been taken in the matter?

منسٹر آف ایجوکیشن (مولانا آزاد) . انریبل ممبر مہربانی کو کے رہ استہتمت
دیکھ لیں جو ۱۰ دسمبر ۱۹۴۹ع کو سٹیٹ گورنل داس کے سوال نمبر ۷۴۸ کے جواب
میں دیا گیا ہے -

The Minister of Education (Maulana Azad): The hon. Member's attention is invited to the reply given to Starred Question No. 748 asked by Seth Govind Das on the 20th December, 1949.

श्री द्विवेदी: क्या मैं मन्त्री महीदय से पूछ सकता हूँ कि चूँकि इस संसद में बहुत से सदस्य ऐसे हैं जो अंग्रेजी नहीं जानते, तो क्या ऐसे सदस्यों की सुविधा के लिये इस संसद की कार्यवाही हिन्दी में भी मिला करेगी ?

Shri Dwivedi: May I enquire of the hon. Minister that as many hon. Members of this Parliament do not know English then will some arrangement be made for the benefit of such hon. Members to let them have the proceedings of the House in Hindi?

Mr. Speaker: How can the hon. Minister answer that?

Shri Kesava Rao: May I know whether any financial assistance is given to non-Hindi speaking Provinces for promoting Hindi?

श्रीमती दुर्गाबाई: जनाब, क्या आप यह कह सकते हैं कि रिपोर्ट में बहुत जल्दी में गवर्नमेंट इस चार्टर्ड यूनीवर्सिटी को कान्स्टीच्युट करना चाहती है ?

The Minister of Information and Broadcasting gave out—it appeared in a Press report.....

Shrimati Durgabai: Can the hon. Minister kindly inform me if through this report the Government wish to constitute this Chartered University very soon? The Minister for Information and Broadcasting gave out—it appeared in a press report.....

Mr. Speaker: Let us not ask questions on press reports.

گھائی جی - ایس - مسافر : ہندی بھاشا کو پاپولر بنانے کے لئے کیا محکمہ تعلیم
ہندی میں آسان کتابیں چھپوانے کی کوشش کر رہا ہے ؟

Giani G. S. Musafir: Is the Ministry of Education making any efforts to publish easy Hindi books in order to make the Hindi language popular?

مولانا آزاد : جہاں تک کورس کی کتابوں کا تعلق ہے اس سال کے بجٹ میں ایک
رقم رکھی گئی ہے اور گورنمنٹ چاہتی ہے کہ ایک بورڈ بنائے اور اس کام کو آگے
بڑھائے۔

Maulana Azad: As far as the text books are concerned a sum of money has been set apart for this work in the present budget and the Government intend to set up a Board in order to go ahead with this Scheme.

Shrimati Durgabai: May I ask for your ruling, Sir? What will be the source of our information? Is it necessary that we should have personal knowledge?

Mr. Speaker: She might see me in the chamber and I will discuss it with her.

Shri Kesava Rao: May I know whether any private institutions like the *Dakshina Bharat Hindi Prachar Sabha* are given any assistance for promoting Hindi?

مولانا آزاد : اس طرح کی نان آفیشیل ایجنسیاں جو کام کر رہی ہیں ان میں
بعض ایجنسیوں کو مدد دی گئی ہے اور آئندہ بھی دی جائیگی۔

Maulana Azad: Out of the non-official agencies of that kind that are working some have been helped and will be helped in future too.

Mr. Speaker: Mr. Tyagi.

Shri Sondhi: Sir, the question has not been answered.

Mr. Speaker: I am calling upon Mr. Tyagi.

श्री त्यागी : क्या गवर्नमेंट ने कोई ऐसी सलाह होम मिनिस्टरी को या महकमे
को दी है कि जो हिन्दी के ग्रेजुएट्स आजकल महकमों में मूलाजिमत में हैं उन ो
अंग्रेजी ग्रेजुएट्स के बराबर समझा जाय ?

Shri Tyagi: Has the Government given any such advice to the Home Ministry or the Department to the effect that the Hindi graduates now employed in the departments should be treated at par with the graduates in English.

مولانا آزاد : گورنمنٹ اس بات پر غور کر رہی ہے کہ جو قومی انسٹی ٹیوشنس ہیں ان کی ڈگریوں کو بھی یونیورسٹیوں کی ڈگریوں کے برابر سمجھا جائے۔ گورنمنٹ اسکے لئے ایک کمیٹی بتھانے والی ہے۔

Maulana Azad: The Government is considering the question of placing the degrees awarded by national institutions at par with university degrees. The Government is going to appoint a committee for that purpose.

श्री त्यागी : क्या कोई ऐसी हिदायत पब्लिक सर्विस कमीशन को भी दी गई है कि जो मुलाजिम लिये जाय उनके लिये खास तौर से खयाल रखा जाय कि हिन्दी जानने वालों को तरजीह दी जाय ?

Shri Tyagi: Have any instructions been issued to the Public Service Commission that preference should be shown to the Hindi-knowing in the matter of recruitment to services?

مولانا آزاد : نہیں اس طرح کی کوئی ہدایت ابھی نہیں دی گئی ہے۔

Maulana Azad: No such instructions have been given so far.

Shri R. K. Chaudhuri: May I know if Hindustani will continue to be taught in High Schools in Assam or whether any instruction will be given to that Province to substitute Hindi for Hindustani?

مولانا آزاد : میں سمجھتا ہوں اس کا تعلق اسٹیٹ گورنمنٹ سے ہے۔

Maulana Azad: I think the State Government is concerned with that.

Shri R. K. Chaudhuri: Sir, I have not understood the answer.

Mr. Speaker: The State Government is concerned with that.

خواجہ عنایت اللہ : کیا گورنمنٹ نے ہندی زبان کو پارلیمنٹ میں رائج کرے گا کوئی پلان بنایا ہے اور اس پر عمل بھی کر رہی ہے ؟

Khwaja Inaitullah: May I know if the Government have prepared a plan whereby to introduce the use of Hindi in all business transacted by the Parliament and also whether the plan, if any, is being put into effect?

مولانا آزاد : پارلیمنٹ میں اسکے لئے جو کچھ کیا گیا ہے، اس کا ایک نمونہ یہ ہے کہ انریبل ممبر اس وقت ہندی میں بول رہے ہیں۔

Maulana Azad: The fact that the hon. Member is speaking in Hindi just now, is an indication to the efforts made to this end.

SELECTION OF SCHEDULED CASTES FOR I.A.S. AND I.P.S.

*774. **Dr. M. V. Gangadhara Siva:** (a) Will the Minister of Home Affairs be pleased to state how many I.A.S. and I.P.S. officers have been recruited from Harijans since 15th August 1947 from out-side and how many from among the existing employees of (i) The Government of India, (ii) the former provinces and centrally administered areas and (iii) the former States and Unions of States?

(b) How is the Special Recruitment Board composed?

(c) Is there a member of minorities to safeguard their interest during selection?

The Minister of Home Affairs and the States (Sardar Patel):

(a) Out-siders	Nil	
Existing Employees	I. A. S.	I. P. S.
(i) the Government of India.	3	1
(ii) the former Provinces and Centrally administered areas.	3	1
(iii) the former States and Unions of States.	Nil	Nil

The figures exclude Scheduled Caste officers of the Provincial Services who may have been promoted to the Indian Administrative Service and the Indian Police Service, about whom the required information is not available.

(b) The Special Recruitment Board, as at present constituted, consists of—

Chairman—Shri R. N. Banerjee, I.C.S., Chairman, Union Public Service Commission.

Members—Shri A. P. Jain, M.P.; Shri W. R. Puranik, Member, Union Public Service Commission.

(c) Government consider that the Chairman and Members of the Board are competent to safeguard the interests of all communities.

Dr. M. V. Gangadhara Siva: Out of the persons selected may I know how many have been actually employed?

Sardar Patel: I have not got the figures here and I require notice.

Dr. M. V. Gangadhara Siva: May I know in what parts of the States and in what capacity these people are employed?

Mr. Speaker: He says he has not got the figures relating to their employment.

Shri Rathnaswamy: Will Government consider the cases of those who failed marginally in the I.A.S. and I.P.S.?

Mr. Speaker: It is a suggestion for action.

Shri Sivaprakasam: Is there any idea of reserving certain vacancies in the I.A.S. and the I.P.S. for having people transferred from the States services to the Central Services?

Sardar Patel: I take it that the hon. Member is asking whether there is any idea of transferring persons from the Provinces to the Centre to fill up the number of reserved seats. There is no prohibition, but if there is any qualified candidate he is taken from the Provinces also.

Shri Sonavane: Will the hon. the Deputy Prime Minister state the number of applications received from eligible candidates for the posts under the categories (i), (ii) and (iii)?

Sardar Patel: I have not got the numbers of applications.

Shri E. Velayudhan: May I know whether any special preference is shown to Scheduled Caste candidates in the selection?

Sardar Patel: Well, the Special Recruitment Board applies a lower standard in regard to Scheduled Caste candidates in the matter of selecting candidates for interviews, and almost all Scheduled Caste candidates found eligible in the matter of qualifications were interviewed.

Shri Deshbandhu Gupta: With regard to the answer to part (a) of the question, will the hon. Minister be pleased to give the break-up figures for the three categories that have been mentioned and tell how many are for the Centrally Administered Areas and how many are for the former Provinces?

Sardar Patel: I require notice for that.

Dr. Deshmukh: In view of the situation disclosed by the hon. the Deputy Prime Minister, is Government considering any steps for greater recruitment of the Scheduled Caste candidates?

Sardar Patel: We are taking all possible steps to improve their recruitment.

Shri Ethirajulu Naidu: May I know the total number of persons selected for the I.A.S. and the I.P.S. from 1947 upto now?

Sardar Patel: I would require notice of that question.

STATUS OF HINDI EXAMINATIONS

*775. **Shri Dwivedi:** Will the Minister of Education be pleased to state:

(a) whether the examinations namely (i) Prathma; (ii) Visharad; and (iii) Sahitya Ratana of Hindi Sahitya Sammelan, Prayag are recognised as equivalent to (i) High School, (ii) B.A. degree, and (iii) M.A. degree examinations respectively of the other universities in India including the Osmania University of Hyderabad Deccan;

(b) if the answer to part (a) above be in the affirmative, will these examinations, be treated at par for purposes of admission of candidates to the competitive examinations of the Union and States Public Service Commissions; and

(c) if the answer to part (a) above be in the negative, whether Government propose to recognise these examinations as such, now that Hindi is the Rashtra Bhasha of our Republic?

منسٹر آف ایجوکیشن (مولانا آزاد): (اے) گورنمنٹ آف انڈیا نے پاس اس بارے میں کوئی انفارمیشن نہیں ہے۔ یونیورسٹیاں آٹونامس باتیں ہیں اور ہر یونیورسٹی دوسری یونیورسٹیوں کے ٹکریوں کے لئے اپنے اپنے رولس اور ریگولیشنس رکھتی ہے۔ گورنمنٹ نہیں چاہتی کہ ان کے انٹرنل ایڈمنسٹریشن میں انٹرفیئر کرے۔

(بی) اور (سی)۔ گورنمنٹ اس بارے میں سوچ و چار کر رہی ہے کہ ملک کے پبلسک انسٹیٹیوشنوں کی ٹکریوں کو ان تمام نوکریوں کے لئے جو گورنمنٹ کے ہاتھ میں ہیں رکھنا کیا جائے۔ اس میں ملکی سہائے سہان بھی ہے۔ ریکلشن میں دونوں باتیں سامنے رکھی گئی ہیں وہ جگہوں بھی جو ڈائریکٹ بہری جاتی ہیں اور وہ بھی جو پبلک سروس کمیشن کے ذریعہ بہری جاتی ہیں۔

The Minister of Education (Maulana Azad): (a) The Government have no information about the recognition accorded by the Universities in India to the various examinations of the Hindi Sahitya Sammelan, Prayag, as equivalent

to their counter-parts of Indian Universities. The Universities being autonomous bodies frame their own rules and regulations for purposes of equivalence and recognition of other Universities degrees, and the Government do not interfere in the internal administration of the Universities.

(b) and (c). The Government are considering the question of recognising the various degrees of the National Institutions including the Hindi Sahitya Sammelan, for purposes of employment to posts under them, either direct or through the competitive examinations conducted by the Union Public Service Commission.

श्री द्विवेदी : कौन कौन सी ऐसी संस्थायें हैं जो कि हिन्दी साहित्य सम्मेलन के अलावा मानी गई हैं ?

Shri Dwivedi: May I know the institutions, to which a recognition has been accorded in addition to the Hindi Sahitya Sammelan?

مولانا آزاد : یہ میں ابھی نہیں بتا سکتا۔

Maulana Azad: Just now, I am not in a position to furnish this information.

ठाकुर कृष्ण सिंह : क्या यह सच है या नहीं कि पहले गवर्नमेंट सर्विस में लिये जाने के समय वे कन्डीडेट जो हिन्दी रत्न, प्रभाकर और विशारद वगैरा के इम्तहान पास करके अंग्रेजी का सबजेक्ट पास किये थे एफ० ए० और बी० ए० के बराबर समझे जाते थे । लेकिन अब यह नोटिस दिया जा रहा है कि वे अब एफ० ए० और बी० ए० के बराबर नहीं समझे जायेंगे और अलग कर दिये जायेंगे ?

Thakur Krishna Singh: Is it or is it not correct that formerly those candidates for Government service who used to pass Hindi Ratan, Prabhakar, Visharad, etc., and then passed examinations in English only were treated at par with those who had passed regular F.A. and B.A. examinations but that now notice is being given that they would no longer be allowed that status and would be removed from service?

Mr. Speaker: He is merely giving information on it.

EXPENDITURE ON REPAIR OF ANCIENT MONUMENTS

*776. **Shri Sanjivayya:** Will the Minister of Education be pleased to state the amount of money spent on the repairs of ancient monuments during the years 1948-49 and 1949-50?

ماسٲر آف ایجوکیشن (مولانا آزاد): ۱۹۴۸ - ۱۹۴۹ ع میں جو روپیہ اس کام کیلئے خرچ کیا گیا وہ ۸ لاکھ ۵۷ ہزار ۵۰۰ روپے کی رقم ۱۲ لاکھ ۳۹ ہزار روپے ہوتی ہے۔

The Minister of Education (Maulana Azad): The amount of money spent on repairs of ancient monuments during 1948-49 is Rs. 8,57,000. The expenditure anticipated in this respect during 1949-50 is Rs. 12,46,000.

Shri Sanjivayya: What is the amount spent on the repair of the Taj Mahal during these periods?

مولانا آزاد : یہ سہن ابھی نہیں بتا سکتا -

Maulana Asad: I am not in a position to furnish the information just now.

UNAUTHORISED TRADE THROUGH FOREIGN POSSESSIONS

*777. **Prof. S. N. Mishra:** Will the Minister of Finance be pleased to state:

(a) whether there has been a fall in customs revenue on account of unauthorised trade through foreign possessions in India; and

(b) if so, what was the amount of fall last year and what are the preventive steps taken in this regard?

The Minister of Finance (Dr. Matthal): (a) No.

(b) Does not arise.

Prof. S. N. Mishra: Have Government any information that a large amount of goods has passed through the French possessions in India?

Dr. Matthal: The information that I have given in reply to the hon. Member is based upon our observation of the amount of smuggled goods which have been seized both on the French frontier and on the Portuguese frontier. There has been no increase in the amount of smuggled goods seized as compared with previous years. On that basis we have come to the conclusion that if there is any fall in revenue, it must be due really to our restrictive policy in regard to imports and not to any increase in unauthorised trade.

I.A.S. AND I.P.S. EXAMINATIONS

*778. **Dr. Deshmukh:** Will the Minister of Home Affairs be pleased to state:

(a) the total number of candidates separately who appeared for the I.A.S. and I.P.S. examinations held so far since 1947;

(b) how many in each of these were successful and how many have so far been absorbed;

(c) the average time taken for declaration of results;

(d) how many of those actually appointed were previously in Government service;

(e) whether there is any different training prescribed for those passing a competitive examination and those recruited otherwise than by competitive examination; and

(f) if so, what the period of training in each case is?

The Minister of Home Affairs and the States (Sardar Patel): (a) to (d). A statement is laid on the Table of the House.

(e) Yes.

(f) (i) Regular Recruits through the Competitive Examination to the I.A.S. or the I.P.S.—8 to 10 months.

(ii) Emergency Recruits to the I.A.S.—2 to 3 months, or the I.P.S.—4 to 6 months.

(iii) State Civil or Police Service officers promoted to the I.A.S. or the I.P.S.—No training

STATEMENT

Appointments to the I. A. S. and the I. P. S.

(a) Total number of candidates separately who appeared for the I.A. S. and I.P.S. Examinations held since 1947.	(a) I. A. S. 5,226	I. P. S. 3,981
(b) Total number of successful candidates and those who were absorbed.	(b) I. A. S. Qualified. 680 Absorbed 63	I. P. S. 325 57
(The results of the examination held in September 1949 are not yet available.)		
(c) The average time taken for declaration of results.	(c) 7 to 8 months.	
(d) Of the persons actually appointed number of those who were previously in Government Service.	(d) I. A. S. 20	I. P. S. 26

Shri Deshbandhu Gupta: May I know whether it is not a fact that so far as the Centrally Administered Areas are concerned not even one person whether hanjian or non-harijan has been recruited or absorbed in the I.A.S. or I.P.S.?

Sardar Patel: Probably nobody has been found fit.

BACKWARD CLASSES IN STATES

*779. **Shri Jnani Ram:** (a) Will the Minister of Education be pleased to state whether Government have issued a circular to the States for preparation of a list of backward classes in connection with the award of scholarships?

(b) If so, what is the basis for the preparation of such a list?

(c) What are the names of the backward classes other than the Scheduled Castes and Scheduled Tribes?

مستتر آف ایجوکیشن (مولانا آزاد) : (اے) کا جواب ہاں ہے -

(بی) شہدولت کاسٹ اور شہدولت ٹرائبز کو چھوڑ کر اور جتنی کلاسوں ایسی ہیں جنہیں اسٹیٹوں کی گورنمنٹیں تعلیم میں بہکورتہ مانتی ہوں اس لسٹ میں لے لی گئی ہیں -

(سی) انکی ایک لسٹ ہاوس نے ٹیبل پر رکھدی جاتی ہے -

[See Appendix III, annexure No. 48.]

The Minister of Education (Maulana Azad): (a) Yes, Sir.

(b) All classes other than the Scheduled Castes and Scheduled Tribes considered by the State Governments as educationally backward are included in the list.

(c) A list is placed on the Table of the House. [See Appendix III, annexure No. 48.]

श्री ज्ञानोराम : क्या माननीय मन्त्री यह बतान की कृपा करेंगे कि पिछड़ी हुई जाति के छात्रों को विदेशों में शिक्षा प्राप्त करने के लिये छात्रवृत्ति की कोई योजना है ?

Shri Jnani Ram: Will the Minister of Education be pleased to state whether there exists any scheme for the grant of scholarships to the students of backward classes for receiving education abroad?

مولانا آزاد : ہاں اسکیم ہے اور اسکالرشپ دئے جا رہے ہیں۔

Maulana Azad: Yes. There is a Scheme and Scholarships are being awarded.

डा० आर० एस० सिंह : क्या माननीय मन्त्री महोदय यह बताने की कृपा करेंगे कि पिछड़े वर्ग के वे ही लोग हैं जो किसी खास खास जाति में पैदा हुए हैं, अथवा वे लोग भी हैं जो भले ही किसी जाति में पैदा हुए हों पर जिनकी आर्थिक एवं सामाजिक स्थिति सचमुच शोचनीय है ?

Dr. R. S. Singh: Will the hon. Minister be pleased to state whether the backward classes comprise of those very persons who have been born in any particular community or it consist of those persons also who might have been born in any community but whose financial and social condition is really pitiable?

مولانا آزاد : اس بارے میں گورنمنٹ آف انڈیا نے کام کا یہ طریقہ اختیار کیا ہے کہ اسٹیٹ گورنمنٹوں سے وہ لسٹ مانگتی ہے اور پھر گورنمنٹ ان پر غور کرتی ہے۔ میں سمجھتا ہوں لسٹ بناتے ہوئے دونوں باتوں کو سامنے رکھا جاتا ہے۔

Maulana Azad: The Government of India have decided in this connection to call for lists from the State Governments and then consider them. I understand that both these things are kept in view while preparing the list.

डा० आर० एस० सिंह : इस सवाल के जवाब में जो कहा गया है उस से मालूम होता है कि केवल उन्हीं लोगों को इस लिस्ट में रखा जायेगा जो कुछ खास खास जातियों में पैदा हुए हैं।

Dr. R. S. Singh: From what has been stated in this reply it appears that only such people will be included in this list as have been born in certain particular castes.

Mr. Speaker: Let him not argue. He may put a question. What information does he want?

डा० आर० एस० सिंह : क्या उन लोगों को भी पिछड़े वर्ग में माना जायेगा जो भले ही किसी जाति में पैदा हुए हों, पर जिनकी आर्थिक और सामाजिक अवस्था सचमुच शोचनीय है ?

Dr. R. S. Singh: Will those persons also be treated as backward classes who might have been born in any community but whose financial and social condition is indeed pitiable?

مولانا آزاد : ہمارا اصلی مقصد یہ ہے کہ جو لوگ تعلیم میں پیچھے ہوئے ہیں انکو آگے بڑھایا جائے۔

Maulana Azad: Our real object is that those people who are backward in education should be pushed forward.

Shri Borooah: Is it a fact that certain highly educated and advanced classes have been included in the list of backward classes?

Mr. Speaker: That will be a matter of opinion, more or less.

Shri Sonavane: Is the Central list a consolidated list of all the backward classes of the various Provinces?

مولانا آزاد : ہاں بہت حد تک ۔

Maulana Azad: Yes, to a considerable extent.

Shri Rathnaswamy: Is it a fact that some confusion is being made between depressed classes and backward classes in some of the educational institutions?

Mr. Speaker: Order, order.

श्री कामत : हमारे देश में बैकवर्डों की संख्या शिड्यूलड कास्ट और शिड्यूलड ट्राइब्स वालों से अधिक है या कम है ।

Shri Kamath: May I know whether the number of backward classes in our country is more or less than that of the Scheduled Castes and Scheduled Tribes?

مولانا آزاد : میں یہ ابھی نہیں بتا سکتا ۔

Maulana Azad: I cannot say this offhand.

Shri Buragohain: May I know from the hon. Minister whether the tea garden tribes and castes in Assam who constitute about one-fifth of the population of the Province of Assam are included in the category of these backward classes as they are not included in the Constitution as Scheduled Castes and Tribes?

مولانا آزاد : آنریبل ممبر لسٹ دیکھنے کی تکلیف کوا کریں گے تو انکو یہ تمام تفصیلات معلوم ہو جائیں گی ۔

Maulana Azad: If the hon. Member takes the trouble of looking at the list, he will find all these details.

سردار سوچیت سنگھ : کیا شیڈولڈ کلاسز میں پیدا شدہ افراد جنہوں نے اعلیٰ تعلیم حاصل کی ہے اور جنگی مالی اور کاروباری حالت اچھی ہے ۔ اس رہنمائی کی خاطر شیڈولڈ کاسٹ میں شامل کیے جائیں گے ۔

Sardar Sochet Singh: Will the persons born in the Scheduled Classes and who have received higher education and whose financial condition is sound be deemed to be included in the category of Scheduled Castes for the object of getting this concession?

I.N.A. PERSONNEL

780. **Shri Unani Ram:** Will the Minister of Defence be pleased to state:

(a) the number of I.N.A. men appointed in armed services?

(b) the number of petitions rejected; and

(c) whether there is any ban now on their appointment and if so, of what nature?

The Minister of Defence (Sardar Baldev Singh): (a) 1,007.

(b) Not known, as no record of such data has been kept at Headquarters.

(c) There is no ban on their appointment or re-employment, provided they satisfy the stipulated conditions regarding age, medical category, educational qualifications, etc.

Sardar Hukam Singh: Is it a fact that the officers of the I.N.A. Relief Committee were offered posts on the condition that they agree to disband their Committee?

Sardar Baldev Singh: I have no such information. The concessions that have been given are absolutely unconditional.

Shri Tyagi: On these I.N.A. personnel rejoining the service, will their past service be counted in the matter of rank, pension and other privileges?

Sardar Baldev Singh: I have not clearly followed the hon. Member's question. Does he mean that if an I.N.A. officer is re-employed, whether his previous service will be taken into consideration?

Shri Tyagi: Yes, that is my point.

Sardar Baldev Singh: Previous service will be taken into consideration in the case of those officers who are found fit for military service.

Sardar Sochet Singh: In the event of their re-instatement in the Army, may I know what is the basis of fixing their seniority?

Sardar Baldev Singh: I would refer the hon. Member to the Army Instructions which have been issued recently.

Shri Kamath: Is it not a fact that I.N.A. officers, when they join the Army, will be given the same rank which they had when they were taken prisoners of war and the interregnum will not be taken into consideration?

Sardar Baldev Singh: If the hon. Member will take the trouble to go through the Army Instructions to which I have referred, he will get all the information he wants.

Shri Alagesan: If other conditions are satisfied, will they be re-instated as if there had been no break in their service?

Sardar Baldev Singh: It all depends on the officers. As I said, the details are contained in the Army Instructions, of which I shall give the hon. Member a copy, and he will then be fully satisfied.

Dr. M. M. Das: May I know whether these ex-I.N.A. personnel have been appointed in the very same posts which they held in the I.N.A., or whether they have been appointed in the posts they held in the British Indian Army before joining the I.N.A.?

Sardar Baldev Singh: The question of employing them in the same posts which they held in the I.N.A. does not arise. For instance, a person who was a Captain in the British Indian Army, when he joined the I.N.A., all of a sudden became a Major General. It is impossible for us to employ him as a Major General. He can only be employed as a Captain, and that too, subject to the conditions laid down in the Army Instructions.

Mr. Speaker: I think we better go to the next Question. The Army Instructions are there. They may be studied.—[*Interruption.*]

Dr. Deshmukh: I want to know.....

Mr. Speaker: Order, order.

Dr. Deshmukh: I want to know whether any fresh orders— [*Interruption.*]

Mr. Speaker: The hon. Member will resume his seat. Next Question.

COLLECTION OF INCOME TAX

*781. **Maulvi Wajed Ali:** (a) Will the Minister of Finance be pleased to state the total amount of income tax realised from each of states (former Indian provinces) for the financial years 1947-48, 1948-49 and 1949-50?

(b) What share of money, as divisible share of the said Income Tax, was received by each of them?

The Minister of Finance (Dr. Matthai): I lay on the Table a statement giving the required information. [See *Appendix III, annexure No. 49.*]

The statement shows the departmental figures of collection which are still under verification with the Accounts Officers.

Shri Deshbandhu Gupta: May I ask the hon. Member to give the figures for Delhi?

Dr. Matthai: The question of Delhi does not arise.

Shri Deshbandhu Gupta: Is it not included in the list of Provinces?

Dr. Matthai: It is a Centrally Administered Area!

Shri Deshbandhu Gupta: Does the hon. Member contend that it is not one of the Provinces?

Mr. Speaker: Order, order. No arguments now.

WOMEN IN I.A.S. AND I.P.S.

*782. **Shrimati Ammu Swaminadhan:** (a) Will the Minister of Home Affairs be pleased to state what is the number of women candidates who have applied for recruitment to I.A.S., I.P.S. and superior secretariat services through the Special Recruitment Board?

(b) Have any of such candidates been recommended by the Special Recruitment Board, to the Government for appointment?

(c) If the answer to part (b) above be in the affirmative, will Government state the number for each service?

(d) How many of the persons so recommended have not received offers of appointment, and if so, what is the reason for not offering appointments to such persons?

The Minister of Home Affairs and the States (Sardar Patel): (a) 289.

(b) to (d). I regret it is not possible to disclose the recommendations of the Special Recruitment Board which are still under consideration.

Shrimati Ammu Swaminadhan: May I know what exactly is meant by the notification of the Government which appeared in the Press on the 23rd January 1950, saying:

"Women are eligible, but Government reserve the right not to appoint those who are married or continue them in service in the event of their marriage."

Does it mean that those women who are already in Government service, if they get married, will be dismissed from their jobs?

Sardar Patel: If they take on more serious obligations while in service, certainly Government will have to consider the question of their continuance.

ELECTION TO CONSTITUENT ASSEMBLY OF HYDERABAD

*783. **Pandit M. B. Bhargava:** (a) Will the Minister of States be pleased to state whether it is a fact that the election for the formation of the Constituent Assembly of Hyderabad scheduled to be held in March, 1950 has been postponed?

(b) If so, what are the reasons for the postponement and till what period has it been postponed?

The Minister of Home Affairs and the States (Sardar Patel): (a) Yes.

(b) As a result of recent exchange of territories between the State and the former Provinces of Madras and Bombay suitable changes have had to be made in the electoral rolls. Some postponement, therefore, became inevitable. The approach of the general election then made it necessary to revise the timings of the election to avoid duplication with the elections to the State legislature on adult franchise. It has, therefore, been decided to have only one election along with the elections to the legislatures of other States under the Constitution and to entrust to the newly elected legislature the functions which the Constituent Assembly was intended to perform.

AGRICULTURAL PRODUCE EXEMPTED FROM TAXATION

*784. **Shri Ranga Reddi:** (a) Will the Minister of Finance be pleased to state what are the agricultural produces, the income by the sale of which are exempted from taxation?

(b) Is the income derived by a sugarcane-grower from the sale of his Gur (Jaggery) produce, liable to taxation?

The Minister of Finance (Dr. Mattha): (a) According to the Income Tax Act, the income derived by a cultivator or receiver of rent in kind by sale of any agricultural produce raised or received by him would be exempt, if in respect of the produce no process other than that ordinarily employed by a cultivator or receiver of rent in kind to render the produce fit to be taken to market has been performed.

(b) A part of the profits would be liable to taxation if it is found for a fact that the sugarcane as such has a market in the vicinity. If however, it is found that there is no such market for sugarcane, the profits would then be regarded as wholly agricultural and exempt from taxation.

Shri Ranga Reddi: Is income derived by sale of sugarcane taxed?

Mr. Speaker: I am afraid it is a question of interpretation of the Income Tax Act.

Dr. Matthal: I do not know what the point of the question is.

Mr. Speaker: I have not understood the question myself.

Shri Barman: Is income derived by the sale of tea regarded as agricultural income?

Mr. Speaker: I think questions as to what is regarded as income for income-tax purposes are matters of law and they may be raised before the proper authorities.

WATER SUPPLY IN NASIRABAD CANTONMENT

***785. Pandit M. B. Bhargava:** (a) Will the Minister of Defence be pleased to state whether it is a fact that there is very great scarcity of water in Nasirabad Cantonment and that water supply even in this winter season is wholly inadequate to meet the normal requirements of the public of Nasirabad?

(b) Have Government received any scheme for augmenting water supply in that area?

(c) If so, what is the financial implication of such scheme and by what time is it likely to be implemented?

The Minister of Defence (Sardar Baldev Singh): (a) and (b). Yes.

(c) The scheme is estimated to cost Rs. 1,14,800 and is to be implemented immediately.

ELECTIONS OF NASIRABAD CANTONMENT BOARD

***786. Pandit M. B. Bhargava:** Will the Minister of Defence be pleased to state:

(a) when the last elections of the Cantonment Board, Nasirabad were held;

(b) whether the term of the present Cantonment Board was extended;

(c) if so, when, for what reasons and upto which date; and

(d) when are the next elections to the Cantonment Board proposed to be held, and will these be on the existing franchise or on adult franchise?

The Minister of Defence (Sardar Baldev Singh): (a) August 1946.

(b) to (d). The life of the present Cantonment Board has been extended up to August 1950 by which date it was expected that adult franchise would be introduced. A person whose name is entered on the current electoral rolls of the Parliamentary Constituency of which the Cantonment forms part is qualified to be enrolled as an elector also for the purposes of the Cantonment Board. The next elections will be held on the basis of adult franchise after the electoral rolls are ready.

Pandit M. B. Bhargava: Can I take it for granted that the proposal is to hold elections in all Cantonment Boards on the basis of adult franchise?

Sardar Baldev Singh: That is the present intention. But it all depends on the electoral rolls. If they are not ready, then elections may have to be postponed. It is our intention, however, to hold the elections on adult franchise.

Pandit M. B. Bhargava: Will it not be necessary to amend the present law before adult franchise can be introduced?

Sardar Baldev Singh: I do not think it will be possible for us to amend the Act before the election. In certain cases, it may be possible; in others, it may be difficult.

Shrimati Durgabai: May I know what happened to the Committee that was appointed for the purpose of considering the Cantonments Act? How many meetings did the Committee hold?

Sardar Baldev Singh: As to the actual number of meetings held, I would require notice, but I may say that the Committee has been meeting several times, and as regards the work done, I think the Lady Member can get all information from her neighbour (Shri Sidhva)!

STATEMENT BY MINISTER OF COMMERCE IN CONNECTION WITH
STARRED QUESTION NO. 438 OF 22ND FEBRUARY, 1950 RE.
IMPORT PERMITS.

The Minister of Commerce (Shri Neogy): With your permission, Sir, I wish to correct an unfortunate error which occurred in my reply to Starred Question No. 438 which my hon. friend Shri Mukut Biharilal Bhargava put to me on the 22nd February. In answer to part (c) of that question, I had stated that the highest amount for which an import licence had been issued to an individual or firm was for Rs. 15,06,24,000 (Rupees fifteen crore six lakh and twenty-four thousand), and in reply to supplementary questions I further stated that this licence was given to Messrs. Rallis (India) Ltd., for the import of raw cotton from East Africa. It was, however, brought to my notice subsequently that the information furnished to me, on the basis of which I had given these answers was not correct, and that the facts were being verified again. As a result of this further verification, it has transpired that the actual amount of that particular licence was Rs. 1,56,24,000 (Rupees one crore fifty-six lakh and twenty-four thousand only) and not Rs. 15,06,24,000 (Rupees fifteen crore six lakh and twenty-four thousand) as then stated. The incorrect information that was given to me was the result of a clerical error in the statistical copy of the licence which unfortunately was not detected earlier. The actual position is that the maximum amount covered by a single licence during 1949 was Rs. 3 crores, and this licence was for a Hydro-electric power plant, transformers and switch gear and was issued to the Chief Engineer, P.W.D., East Punjab.

I deeply regret this error and apologise to you, Sir, and to the hon. Members. I need hardly add that I am enquiring into the circumstances which led to this error remaining undetected in the statistical copy, and shall take such action against the person or persons responsible as may be necessary.

Mr. Speaker: I am not allowing questions on this.

WRITTEN ANSWERS TO QUESTIONS

U. N. SOCIAL WELFARE FELLOWSHIPS

***766. Shri Raj Bahadur:** (a) Will the Minister of Education be pleased to state whether any group of Indian students or Government employees are sent for studies and training abroad in connection with the United Nations Social Welfare Fellowship?

(b) If so, what is the number of such students or employees sent annually?

(c) What is the cost of training per student?

(d) What is the method of selection of such students or employees?

The Minister of Education (Maulana Azad): (a) to (d). The hon. Member's attention is drawn to the Statement placed on the Table of the House.

STATEMENT

U. N. Social Welfare Fellowships

In order to assist the member-States and other territories in the initiation and development of Social Welfare Services, the United Nations Organisation has, since 1947, been operating a Programme of Social Welfare Fellowships. The Programme provides for training and observational facilities abroad to selected qualified personnel of the participating Governments in the various aspects of Social Welfare. The Government of India have been participating in the Programme since its inception by deputing annually a selected number of Social Welfare workers, including some Government employees, for short courses of training and observation abroad.

To be eligible for a Fellowship, a candidate must be of ripe age and must have adequate academic qualifications and practical experience in the field of Social Welfare. He must also be employed on a Senior job in the field where his knowledge and experience could be of use to the country.

Fellows are selected by means of applications invited through States Governments, Chief Commissioners and States Unions, Ministries of the Government of India, Universities and Social Welfare Organisations in the country. A committee consisting of the representatives of the Ministries interested in the subjects included in the Programme and a representative of the U.N. Information Centre in New Delhi is appointed to make selections, and names of the candidates thus selected are recommended to the U.N.O. for consideration. The final selections for awards of Fellowships are made by the U.N.O.

Under the terms of the Fellowships, the U.N.O. bears the maintenance allowances, varying from country to country of observation. The U.N.O. also contributes towards the cost of travel of the Fellows to and from the country of observation, only to the extent this cost actually cannot be paid by the home country. In 1947 and 1948 the U. N. bore the travel costs of all the Fellows selected from India. In 1949, however, the Government of India paid such costs in respect of 9 out of the 19 selected Fellows, and the average expenditure incurred on each of these 9 Fellows was Rs. 3,387 approximately.

In 1947, India availed of 3 such Fellowships, while for 1948 and 1949, the figures are 12 and 19 respectively. For 1950, 25 Fellowships have been tentatively allocated to India. The Government of India's recommendations have been communicated to U.N.O. with whom lies the final selection.

ROAD ACCIDENTS IN DELHI

***772. Shri R. C. Upadhyaya:** Will the Minister of **Home Affairs** be pleased to state how many persons died due to road accidents in Delhi city (in old and New Delhi Municipal areas) during the year, 1949?

The Minister of Home Affairs and the States (Sardar Patel): Old Delhi—10. New Delhi—17.

MERGER OF DHOLPUR IN U.P.

***773. Shri R. C. Upadhyaya:** (a) Will the Minister of **States** be pleased to state whether the attention of the Government has been drawn to the fact that an All Party Meeting of residents of former Dholpur State was held in the 1st week of February, 1950, in which an unanimous resolution demanding the merger of Dholpur with U.P. was passed?

(b) What steps have the Government of India taken to meet the unanimous decision of the people of that area?

The Minister of Home Affairs and the States (Sardar Patel): (a) Yes.

(b) The question of the future of this area is under consideration.

NEW PENSION RULES

***787. Prof. Yashwant Rai:** (a) Will the Minister of Finance be pleased to state when are the orders in respect of new Pension Rules, as recommended by the Central Pay Commission, likely to be issued?

(b) What are the reasons for the delay in implementing these recommendations of the Commission and how long are Government likely to take to come to a decision in this regard?

The Minister of Finance (Dr. Matthai): (a) The orders in the matter are not likely to be delayed for long.

(b) The Commission's recommendations are expected to involve certain modifications of a radical nature in the existing pension system and the delay in coming to a decision is unavoidable.

SCHEDULED CASTES SCHOLARSHIPS

***788. Shri Kshudiram Mahata:** Will the Minister of Education be pleased to state:

(a) the amount spent by the Government of India in 1948-49 and 1949-50 for scholarship to backward class students of Bihar;

(b) the reasons why applications of students of J.K. College, Purulia District Manbhhum were not considered;

(c) the name of the Committee and the name of its members who deal with this fund;

(d) whether this fund is only for students reading in Colleges; and

(e) what are the castes grouped as backward in Chotanagpur?

The Minister of Education (Maulana Azad): (a) to (e). The hon. Member's attention is drawn to the statement laid on the Table of the House. [See Appendix III, annexure No. 50.]

TERMINATION OF SERVICES OF MYSORE HIGH COURT JUDGE

***789. Shrimati Durgabai:** (a) Will the Minister of States be pleased to state whether the attention of Government has been drawn to reports appearing in Indian Newspapers generally and particularly to the leading article in the *Hindu* of Madras of 25th February, 1950 regarding the termination of the services of Shri Putturaj Urs, a Judge of the High Court of Mysore, a week after the promulgation of the Republic, by an order of the President on 26th January, 1950?

(b) What are the circumstances under which his services were terminated under the power vested in the President under Article 376(2)?

The Minister of Home Affairs and the States (Sardar Patel): In order that the hon. Members may clearly appreciate the circumstances of this particular matter, I should like to indicate the types of cases which orders issued by the President under Article 376(2) of the Constitution have covered. Having regard to the wide disparity between the qualifications, ages and the circumstances and manner of appointment and the salaries and other conditions of service of the Judges of various High Courts of former States and Unions, it

The final assessment of sale accounts against this Agreement has not yet been made. However, an "on account" payment of Rs. 74,95,000 out of the sale proceeds has been made by the Government of India to the Government of U.S.A.

(b) The Government of undivided-India acquired full title to the surplus property and stores on 1st April 1947 under an Agreement which was ratified in July 1948 between the Governments of India and U.K. Under this Agreement, a sum of £ 100 millions was to be paid by the Government of India in respect of defence stores and fixed assets. The value of the surplus stores lying in depots scattered throughout undivided-India was estimated at Rs. 87.7 crores.

(c) Net sale value of sales effected up to December, 1949 has not yet been worked out. The Balance Sheets will be prepared after the liquidation of the entire surpluses.

INDIANS IN INDO-CHINA

*336. **Shri N. S. Jain:** Will the **Prime Minister** be pleased to state whether there are any Indians in Indo-China and if so, how many?

The Deputy Minister of External Affairs (Dr. Keskar): There are about 2,500 Indians in Indo-China.

ESTABLISHMENT OF MACHINE TOOL FACTORY

*337. **Shri Biyani:** (a) Will the Minister of **Industry and Supply** be pleased to state whether it is a fact that some industrialists who were consulted in regard to the machine tool project have conveyed to Government that the project is too costly and is bound to be uneconomic?

(b) If so, have Government given any consideration to these views?

(c) If the reply to part (a) above be in the affirmative, what changes have been made in the original project?

The Minister of Industry and Supply (Dr. S. P. Mookerjee): (a) to (c). Government informally consulted certain leading industrialists before concluding the Agreement with Messrs. Oerlikon Machine Tool Works of Switzerland for the establishment of the Machine Tool Factory in India. They offered some criticisms but the general opinion was that the terms were not unreasonable and the project was sound.

MACHINE TOOLS AND HEAVY ELECTRICAL EQUIPMENT

*338. **Shri Biyani:** (a) Will the Minister of **Industry and Supply** be pleased to state the approximate requirements of the country in the matter of machine tools and heavy electrical equipment?

(b) What is the data on the basis of which the requirements have been calculated?

(c) Were any industrial interests consulted before finalising or drawing up schemes in regard to these projects?

The Minister of Industry and Supply (Dr. S. P. Mookerjee): (a) to (c). A statement is laid on the Table of the House. [See *Appendix III, annexure No. 55.*]

Friday, 10th March, 1950



PARLIAMENTARY DEBATES

(Part II—Proceedings other than Questions and Answers)

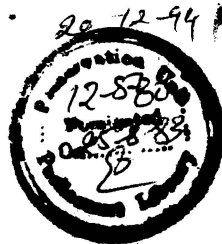
OFFICIAL REPORT

VOLUME I, 1950

First Session
of the

PARLIAMENT OF INDIA

1950



CORRIGENDA

to

the Parliamentary Debates (Part II—Other than Questions and Answers), 1st Session, 1950,—

In Volume II,—

1. No. 1, dated the 24th February, 1950,—

- (i) Page 809, line 19 for "cbroadly" read "broadly".
- (ii) Page 814, line 20 for "alsod" read "also a".
- (iii) Page 826, line 24 after "have" read "got".
- (iv) Page 831, line 12 for "stile" read "still" and in line 13 for "wouild" read "would".
- (v) पृष्ठ ८५४, पंक्ति ६ में "बैठेगो" के स्थान पर "बैठेंगे" पढ़ें।
- (vi) पृष्ठ ८५७, पंक्ति ४ में "डब्बो" से पहले "और" को निकाल दें।
- (vii) Page 865, last line for "15th" read "25th".

2. No. 2, dated the 25th February, 1950,—

- (i) Page 884, line 27 from bottom for "latterly" read "laterly".
- (ii) Page 898, line 11 for "fact" read "feet".
- (iii) Page 901, line 11 omit "a" after "had".
- (iv) Page 903, line 10 from bottom for "low" read "law".

3. No. 3, dated the 27th February, 1950,—

- (i) Page 950, line 5 from bottom for "alternation" read "alteration".
- (ii) पृष्ठ ९६१, नीचे से पंक्ति १३ में "श्री ए० पी० सिंह" के स्थान पर "श्री ए० पी० सिन्हा" पढ़ें।
- (iii) पृष्ठ ९६६, पंक्ति १ में "मा" के स्थान पर "या" पढ़ें।
- (iv) Page 967, line 9 for "ot" read "to".
- (v) Page 970, line 9 for "Mangers" read "Managers".

4. No. 4, dated the 28th February, 1950,—

- (i) Page 984, line 11 for "Mr. Chairman :- The question is" read "The motion was adopted".
- (ii) Page 986, for the existing last line read "The House then adjourned for lunch till half past two of the clock".
- (iii) Page 994, line 27 from bottom for "onse" read "ones".
- (iv) Page 1010, line 16 from bottom for "Mr. Gaganvinari lal" read "Mr. Gaganvihari Lal".

5. No. 5, dated the 1st March, 1950,—

- (i) Page 1021, line 22 for "has been callous" read "has been even callous".
- (ii) Page 1033, line 25 from bottom for "on" read "or".
- (iii) Page 1053, line 21 for "Shri Ethirajula Naidu" read "Shri Ethirajulu Naidu".
- (iv) Page 1054, transfer lines 29 and 30 after line 31.
- (v) Page 1064, line 4 for "cadamom" read "cardamom".

6. No. 6, dated the 2nd March, 1950,—

- (i) Page 1090, line 17 for "Hon. Members three minutes" read "Hon. Members say three minutes".
- (ii) Page 1096, first line for "section" read "selection".

7. No. 7, dated the 6th March, 1950,—

- (i) Page 1143, line 11 from bottom for "fact" read "face".
- (ii) Page 1150, line 18 for "in" read "the".

(ii)

(iii) Page 1060, line 13 from bottom *delete* "no".

(iv) Page 1164, line 4 from bottom *for* "Shri Satis Chandra" *read* "Shri Satish Chandra".

(v) Page 1165, line 26 *for* "Dr. Matthai" *read* "Dr. Mathai".

(vi) Page 1171, line 2 *for* "as" *read* "or".

(vii) Page 1174, last line *for* "Hudget" *read* "Budget".

8. No. 8, dated the 7th March, 1950,—

(i) Page 1179, line 11 *for* "question" *read* "questions".

(ii) Page 1221, line 13 *for* "by" *read* "but".

9. No. 9, dated the 8th March, 1950,—

Page 1260, line 21 from bottom *after* "so far," *read* "but no".

10. No. 10, dated the 9th March, 1950,—

(i) Page 1306, line 28 from bottom *for* "gah" *read* "Durgah".

(ii) Page 1321, line 28 *for* "has " *read* "This".

11. No. 11, dated the 10th March, 1950,—

(i) Page 1342, line 23 from bottom *for* "panel" *read* "penal".

(ii) Page 1352, line 3 from bottom *for* "Houses" *read* "House".

12. No. 12, dated the 11th March, 1950,—

Page 1385, *for* the existing line 18 from bottom *read* "another thing that I wish to submit is this. It is but fair that, when the".

13. No. 14, dated the 14th March, 1950,—

Page 1507, line 11 from bottom *for* "Shri A. P. Fain" *read* "Shri A. P. Jain".

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PARLIAMENTARY DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Friday, 10th March, 1950

The House met at a Quarter to Eleven of the Clock.

[MR. SPEAKER in the Chair]

QUESTIONS AND ANSWERS

(See Part I)

11-48 A.M.

ARMY BILL

EXTENSION OF TIME FOR PRESENTATION OF REPORT OF SELECT COMMITTEE.

The Minister of Defence (Sardar Baldev Singh) : I beg to move :

“That the time appointed for the presentation of the Report of the Select Committee on the Bill to consolidate and amend the law relating to the government of the regular Army, be further extended upto Tuesday, the 21st March, 1950.”

Mr. Speaker : Motion moved :

“That the time appointed for the presentation of the Report of the Select Committee on the Bill to consolidate and amend the law relating to the government of the regular Army, be further extended upto Tuesday, the 21st March, 1950.”

बाबू रामनारायण सिंह : सभापति जी, मैं इस सम्बन्ध में आपका निर्णय चाहता हूँ ।

जब एक समय निश्चित हो जाता है तो समय बढ़ाने के लिये लोग क्यों प्रस्ताव करते हैं, इसकी कैफियत देनी चाहिए ।

Babu Ramnarayan Singh (Bihar) : I want your ruling, Sir. When a time limit is fixed, there must be some explanation as to why extension of time is moved.

Mr. Speaker : -There is some force in what the hon. Member is urging. Some explanation, when such a motion is moved, as to why extension of time is being asked for has to be given.

Sardar Baldev Singh : As I explained on the last occasion when extension was asked for, it has not been possible to finish the work on the two Bills unfortunately. There are a number of clauses in each and they require very careful examination and we have to see to the convenience of Members also. This is the reason for this motion.

Shri Sidhva (Madhya Pradesh) : Is it not a fact that the Select Committee appointed on the Navy Bill has already completed its work and no extension of time is required ?

Sardar Baldev Singh : There is no Navy Bill before the House.

Shri Sidhva : I am sorry, I meant the Air Force Bill.

Mr. Speaker : The two have to be proceeded with together. That is obvious.

The question is :

“That the time appointed for the presentation of the Report of the Select Committee on the Bill to consolidate and amend the law relating to the government of the regular Army, be further extended upto Tuesday, the 21st March, 1950.”

The motion was adopted.

AIR FORCE BILL

EXTENSION OF TIME FOR PRESENTATION OF REPORT OF SELECT COMMITTEE.

The Minister of Defence (Sardar Baldev Singh) : I beg to move :

“That the time appointed for the presentation of the Report of the Select Committee on the Bill to consolidate and amend the law relating to the government of the Air Force, be further extended upto Tuesday, the 21st March, 1950.”

Mr. Speaker : Motion moved :

“That the time appointed for the presentation of the Report of the Select Committee on the Bill to consolidate and amend the law relating to the government of the Air Force, be further extended upto Tuesday, the 21st March, 1950.”

Shri Sidhva (Madhya Pradesh) : I am a Member of the Select Committee on this Bill. We have already completed our work on it. In the circumstances I want to know why extension of time is asked for.

Sardar Baldev Singh : The provisions in the Air Force Bill and the Army Bill are identical and we want to compare the provisions of both. That is why we are thinking of presenting the report on both the Bills on the same date.

Mr. Speaker : The question is :

“That the time appointed for the presentation of the Report of the Select Committee on the Bill to consolidate and amend the law relating to the government of the Air Force, be further extended upto Tuesday, the 21st March, 1950.”

The motion was adopted.

PARLIAMENT (PREVENTION OF DISQUALIFICATION) BILL

Mr. Speaker : The House will now proceed with the further consideration of the following motion moved by Dr. B. R. Ambedkar yesterday.

“That the Bill to make provision in regard to certain offices of profit under article 102 of the Constitution, be taken into consideration.”

Shri Kamath (Uttar Pradesh) : I rise to a point of order, Sir. I rise to question the constitutional propriety or validity of the presence of the hon. Ministers of State and Deputy Ministers in Parliament, or rather, the constitutional sanction for their membership of Parliament. In short, my plea is that Parliament is unconstitutionally constituted. I shall make myself clear. The point I want to make out is that we must set up healthy precedents and scrupulously respect the Constitution which we ourselves have framed. I may definitely state that what I am pointing out should not be taken to mean that I love the Ministers of State and Deputy Ministers less, but that I love the Constitution more. Their presence in, or Membership of, Parliament today is contrary to the Constitution which we have adopted and inaugurated. As regards the Cabinet Ministers the provision is clear. Article 381 allows them to continue as Members of the Council of Ministers even after the Constitution is inaugurated until such time as the President may appoint new Ministers. The article reads :

“Such persons as the President may appoint in that behalf shall become Members of the Council of Ministers of the President under this Constitution. and, until appointments are so made, all persons holding office as Ministers for the Dominion of India immediately before the commencement of the Constitution shall on such commencement become, and shall continue to hold office as, Members of the Council of Ministers of the President under this Constitution.”

It is clear from this that there is no difficulty whatever about the Cabinet Ministers.

The Minister of Labour (Shri Jagjivan Ram) : Council of Ministers.

Shri Kamath : The difficulty now is about the Ministers of State and the Deputy Ministers in the Government of India. I am sorry that this aspect of the

matter was overlooked by the pilots of the Constitution, Dr. Ambedkar and also his industrious colleague Mr. Santhanam who used to take part in the Constituent Assembly debates very often. They forgot about this.....

The Minister of State for Transport and Railways (Shri Santhanam) : The hon. Member need speak only for himself. He need not speak for others.

Mr. Speaker : I would ask the Hon. Member to be short in stating his point. I do not propose to allow him more time. What is his point now ?

Shri Kamath : Sir, article 394 says :

“This article and articles 5, 6, 7, 8, 9, 60, 324, 366, 367, 379, 380, 388, 391, 392 and 333 shall come into force at once, and the remaining provisions of this Constitution shall come into force on the twenty-sixth day of January, 1950, which day is referred to in this Constitution as the commencement of this Constitution.”

That is to say, those provisions which relate to the Council of Ministers and cognate matters came into force on the 26th January, 1950.

I did suggest in the Constituent Assembly speaking in this connection that the time also should be fixed but that was not accepted and on account of that this difficulty has arisen. To my mind, according to the Western calendar,—the new date commences at midnight, on the stroke of midnight. That is to say, the 26th January came into being at the stroke of midnight of the 25/26th.

Mr. Speaker : I cannot follow his argument. What is his point ?

Shri Kamath : The Ministers of State and the Deputy Ministers ceased to be members on the midnight of 25/26th January. That is my point.

Mr. Speaker : He means ‘Members of the House’ ?

Shri Kamath : Yes.

Mr. Speaker : Assuming that, what happens ?

Shri Kamath : To-day they are continuing as Members of the House for which they have no right.

Mr. Speaker : That means the hon. Member’s point of order really is that there are some members of the House who are taking part in the proceedings of the House without being Members ? I really do not know how it arises on this consideration motion. For at this stage we are discussing a Bill about exempting certain people from being disqualified because they get some office of profit. That is an independent point.

Shri Kamath : Sir, I rise to a point of order.

Mr. Speaker : I do not entertain that.

Shri Kamath : Because the Ministers took the oath in this House as Members of Parliament.

Mr. Speaker : It has no concern whatever with the Bill before us. The Bill is to make provision with regard to certain offices of profit under Article 102 of the Constitution. This point has nothing to do with the Bill. This point is an independent point, *viz.*, whether certain members who are strangers, according to the hon. Member raising the point, can sit in the House. It is not a point of order. When it comes to voting, and if they vote, then we might see whether they are entitled to vote or not, but it cannot be raised at this stage till it goes to the stage of voting. Supposing some person came here and took the oath under false personification and is sitting in the House, how does it affect the consideration of this motion. It is an independent point altogether. It is no use taking the time of the House for this point in view of the urgency of this legislation. I do not think I could permit that point of order any further.

Syed Nausherahli (West Bengal) : May I just raise a point of privilege ?

Mr. Speaker : He may raise it later

Syed Nausherahali : I should like to have your decision on this point. If a situation arises while the House is in session in the very House itself, which appears to be an infringement of the privileges of the Members, will not a Member be entitled to raise that point in the House ?

Mr. Speaker : That is a hypothetical question which I am not prepared to answer now.

Pandit Kunzru (Uttar Pradesh) : Sir can we raise this in a discussion after question hour on any day in a regular way ?

Mr. Speaker : If hon. Members want to raise any point, they should first contact me, make me cognizant of the point that they want to raise so that I may have time to consider the question, discuss the matter with the Member and try to understand him. Unless this is followed, any Member may choose to raise any point in the House and call it a point of order or privilege and it would

12 NOON. mean an unnecessary waste of the time of the House. It may not be waste from the point of view of the Member who wants to raise the point but certainly I, as protector of the rights of Members, am equally bound to see that nobody is allowed to waste the time of the House by raising any point at any time he likes. I have made that point very clear and whenever Members have come and talked to me, I do not remember a single occasion on which I have refused the request of the Member to the point being raised. That is a proper procedure. Now when this Bill is coming, hon. Members obviously raise a point of privilege and I do not see how it is a breach of the privileges of the House. If some outsider comes in and sits in the House, he is liable to certain penalties under the law. How it is a breach of privilege of the House is a thing which I cannot understand at present. We might discuss that point and if I think that that is really a breach of the privileges if I am convinced *prima facie* of the position—then of course I will allow that, not otherwise.

Dr. Deshmukh (Madhya Pradesh) : Sir, are we not entitled to claim that the stranger be ousted from the House ?

Mr. Speaker : But they are not entitled to expect a decision to be taken by me then and there. What I say will prevail in this House so long as I am here and the hon. Members must know that. I must see that the debate is carried on reasonably, that opportunity is given to all and that nobody's right is infringed. If I were to accept such points of individual rights of Members, then I shall have to go by what individual Members think about their rights instead of deciding as to what is the interest of the majority of the Members. I am not prepared to accept that position.

The Minister of Law (Dr. Ambedkar) : I should like to draw the attention of my friend Mr. Kamath, before he proceeds along the lines that he has taken, to article 103 which will conclusively meet his point.

Mr. Speaker : That point does not arise now. Mr. Tyagi may finish his unfinished speech.

Shri Tyagi (Uttar Pradesh) : I have not much more to say. I want to produce as an argument both these articles. All such Members as have been appointed as Ministers or Deputy Ministers or Ministers of State are covered by article 381.

[MR. DEPUTY SPEAKER *in the Chair*]

According to article 381 of the Constitution we have legalized the continuance of the present Ministers as the Council of Ministers. Let us see who is the Minister.

Article 381 reads :

"Such persons as the President may appoint in that behalf shall become members of the Council of Ministers of the President under this Constitution, and, until appointments are so made, all persons holding office as Ministers for the Dominion of India immediately before the commencement of this Constitution shall on such commencement become, and shall continue to hold office as, members of the Council of Ministers of the President under this Constitution."

I submit that all those who hold any Ministerial position to-day in the Parliament are members of the Council of Ministers because there could be no other category recognized in the Constitution. All those who were appointed by the Governor-General were the Governor-General's Council of Ministers; all such persons as were appointed to the Ministerial ranks, I submit, are now Members of the Council of Ministers of the President.

According to the present procedure also, under article 74, the Council of Ministers will be headed by the Prime Minister. Let us see as to how they are appointed. It is mentioned here that the Prime Minister shall be appointed by the President. So, the Prime Minister is in a different category from the other Ministers to some extent. The other Ministers shall be appointed by the President on the advice of the Prime Minister. All those who have been appointed by the President on the advice of the Prime Minister are known as the Ministers. Therefore my submission is: all such members of the House as have been appointed to any ministerial job in the House by the President on the advice of the Prime Minister are Ministers of the Council of the President. Such Ministerial appointments which come only through the recommendation of the Prime Minister and are sanctioned by the President are the only ones recognised in the Constitution. All such persons who held such offices in the past have been regularised and they will continue to be the Council of Ministers.

Mr. Deputy-Speaker : What is the hon. Member's point ? I am not able to gather.

Shri Tyagi : My point is that the removal of disqualification was not necessary in the case of Ministers of State and Deputy Ministers because all these categories are included in the term Ministers against whom the disqualification has already been removed, according to Article 102. Article 102 does not speak of Council of Ministers at all. Article 102 removed the disqualification against Ministers. The word used is "Minister". There is no question as to whether these ministers are Ministers of the Council of the President or some other Ministers. Whosoever may be a Minister, there is no disqualification on him according to Article 102. I submit, that a Minister cannot exist unless he has been appointed by the President. The President shall not appoint any person as a Minister unless he has been recommended by the Prime Minister. The Prime Minister was appointed regularly. The Prime Minister recommended the others and those who were recommended by the Prime Minister have been appointed by the President as Ministers, whatever their name may be. I, therefore, submit that Ministers of State and Deputy Ministers who were appointed on the recommendation of the Prime Minister were regularly appointed and there can be no other appointment made except as Ministers according to this Constitution. My only submission is that all these holders of Ministerial offices in this House are regular Ministers whatever be their name. A change of name or an adjective before the name shall not change their category. As I said, I would remind the House, that if the addition of the word "Deputy" before the word "Minister" brings disqualification on him, then, I must submit that the addition of the word "Prime" before "Minister" also brings disqualification on the Prime Minister. Therefore, if it is taken in that way, as Dr. Ambedkar would like to lay importance upon this, there is a great legal flaw. It is said in the Article that the other Ministers shall be appointed by the President on the advice of the Prime Minister. The Prime Minister has not been appointed on the advice of the Prime Minister. He is, therefore, not a Minister. He is a Prime Minister. He had been appointed under another clause of the

[Shri Tyagi]

Article. He has a direct appointment without any recommendation. Here only the disqualification against Ministers has been removed and not against the Prime Minister, nor against the Council of Ministers. The Prime Minister is of a different category of Ministers just as Deputy Ministers or Ministers of State are. All of them should be taken to be Ministers for the purposes of this Article 102. I submit, this word "Ministers" includes Prime Minister : it also includes Deputy Ministers and Ministers of State. Therefore, that part of the Bill is not necessary at all.

An Hon. Member : What about Parliamentary Secretaries ?

Shri Tyagi : It is necessary for Parliamentary Secretaries. Parliamentary Secretary is not an office recognised by the Constitution as such. It is not necessary or incumbent on the Provincial or State Governments or the Central Government to appoint Parliamentary Secretaries. They can call the Parliamentary Secretaries as Deputy Ministers and thereby the Constitution need not be changed. If the name alone has to be changed, they may be called Sub-Ministers.

There is another change which Dr. Ambedkar has made. In the Ordinance there were two categories which were given exemption : one was about Deputy Ministers, Ministers of State and Parliamentary Secretaries, etc. The second had sought to exempt offices which were not "whole time offices remunerated either by salary or fees." This time he has eliminated this category altogether which means that the idea of the Government or Dr. Ambedkar, the Minister for Law is that such offices as were exempted under the second sub-clause of the Ordinance will no more be exempted. This means that the Members of any Commission—I do not know if the Planning Commission is in the office again—may not be exempted. I do not know whether the Members of the Planning Commission will be disqualified from seeking election to Parliament. If the Members of the Planning Commission are also made Ministers through the proper recommendation of the Prime Minister, that would be a different case altogether. If the Prime Minister does not choose to recommend to the President to appoint the members of the Planning Commission, as Ministers I am afraid they too would be disqualified even to offer themselves for re-election to the House unless they give up their membership of the Planning Commission. They have not been exempted. There are so many other committees which this House appoints from time to time. Lately there was some committee to grant loans to the refugees and some of our Members are there. Then again, there are statutory bodies like the electric board or the transport body and such other committees. There is the Indian Cadet Corps, and in all these committees Members from here are appointed. They get some allowance or some remuneration for the service they render there. If the hon. Dr. Ambedkar has decided to eliminate this sub-clause that will mean that such Members who are engaged in such committees or commissions will immediately be disqualified after twelve o'clock this night because this Ordinance expires tonight. Tomorrow many of such Members will be disqualified of their membership. I say disqualification can be applied at a moment and not in a space of time. After twelve o'clock they will be disqualified and once they are disqualified they cannot come back to the House until they are re-elected. A Member once he is disqualified cannot continue to be a Member for a single moment. Therefore, I submit that he might also include that clause if possible.

There is one other thing which I wish to bring to the notice of the House and that is : in the British Parliament there are "ambassadors", and in May's Parliamentary Practice it says : "The Commons in view of the precedents of their old decisions decided that an exception for Ambassadors was implied in the new Statute." In the House of Commons even Ambassadors are not disqualified to stand as Members, but here, of course, they will be disqualified. Many categories come under this description, for example, there are sheriffs, president of the district boards who are seldom paid-servants. Once they are elected they get a pay just as

Ministers get a pay here. They are whole-timers and probably they would also be disqualified. I do hope that the hon. Dr. Ambedkar will take into account all these legal difficulties.

The Prime Minister (Shri Jawaharlal Nehru): There are so many Members in this House learned in law and in parliamentary procedure that I feel some diffidence in dealing with a subject which concerns law or parliamentary procedure. I confess that for the last 30 years, I have not looked into May's Parliamentary Practice, which hon. Members know so well and to which they refer so frequently. The question that is before the House is an exceedingly simple one. Whether there was a lacuna in the Constitution when we framed it or not, I cannot say and lawyers may perhaps determine that. So far as we are concerned in Government, there is no lacuna and as the Constitution is framed, we thought, and we still think, that Ministers of State and Deputy Ministers belong to the Council of Ministers. We are quite clear about that, and therefore, it never struck us at that time to make any special provision for them in the Constitution. Then again some people learned in law said that this point might be raised, this difficulty might somehow crop up, and although it is not by any means certain, still if somebody else raises it, what then? Then you go to the law courts. So I confess we are frightened by this possibility, although in our minds, we are quite clear that all these people belong to the Council of Ministers, and so merely to prevent any possible, conceivable difficulty from arising, we passed that Ordinance. Now we seek to pass this Bill to give effect to that Ordinance, though in our own view, neither the Ordinance nor the Bill was very necessary, but in order to avoid this difficulty, we thought: Let us pass this; let us then at some leisure consider this matter and put it on a firmer, broader basis. But we had little time, and in fact, today is the last day for it. So we put the Bill in as simple and as brief a form as possible so as to avoid this difficulty, and if necessary, to consider it more fully later in some form or other. I do submit to the House, therefore, that from this point of view, we need not go into those niceties of constitutional interpretation. I agree with much that my hon. friend, Mr. Tyagi has just said, but we just do not want to take a risk that somebody might challenge in the court of law. Therefore, we put it in, although our view may lead to the conclusion that this was not wholly necessary and that afterwards we may consider it more fully. The other point is that since we put in this, we did add Parliamentary Secretary or Under Secretaries in it although we have no such Secretaries, and there is no present intention of having them, but as we are having it, we might as well include them too because normally if we follow the parliamentary procedure which.....

Mr. Deputy-Speaker: There are Parliamentary Secretaries in the States. It is intended to cover that. There are Parliamentary Secretaries in the State Assemblies.

Shri Jawaharlal Nehru: I quite see, Sir. You remind me that there are such people in the States and it is intended to cover them. Apart from that in parliamentary procedure as it prevails in the United Kingdom and some other countries such grades of Ministers and Secretaries do exist and I think it is a right thing for them to exist because if you have an efficient parliamentary democratic machine, there must be these grades for training purposes. People gradually acquire experience and then assume bigger responsibilities.

Mr. Tyagi referred to another class of persons who are Members and who may be on some committees and others who may be drawing some kind of allowance daily or otherwise. Well rather deliberately without considering the draft of this Bill, we left out that clause (b) which refers to other cases where an allowance or salary is paid; we left it out because we were perfectly clear that daily allowance etc. of this kind cannot possibly come in to disqualify a person. This is a very ordinary thing. Parliamentary Committees are often formed and the travelling allowance or daily allowance is paid for the days the Members function, but the word "salary"

[Shri Jawaharlal Nehru]

appeared to us rather a dangerous word in the Ordinance because that may cover so many cases and it will be difficult then to draw the line and we felt that normally the daily allowance etc. is paid to a member of the Committee—it has been the case not now, but for years past—there can be no difficulty about it; we left that out and if any type of difficulty, any other difficulty arises, it is for us to examine it and may be, if necessary, to bring forward some piece of legislation or amendment as the case may be, which will cover those difficulties. For the present, I do submit that those possible objections that might be raised can be got over by passing the Bill as it is. Let us not imagine future difficulties. We have to pass this today. Let us think over the larger question at leisure, and if necessary, bring an appropriate legislation.

Shri Sidhva (Madhya Pradesh) : What the hon. the Prime Minister said as far as the first part is concerned, is perfectly correct, because in the Constituent Assembly when this matter was under discussion, I had actually moved an amendment for the inclusion of the Deputy Ministers and I was told that Ministers mean Deputy Ministers. That is clear, but there is one other point which is worrying me as well as many hon. Members of this House and that is this: Members are appointed on Committees by Government and not by this House. Those who are appointed by the House, there is no fear that they are disqualified but as regards those who are appointed by the Government, I was told by the hon. Law Minister that it is a question whether they can continue to be so.

We were discussing this matter and I was also going through May's Parliamentary Practice and I came across one case which makes me feel that this question requires to be considered. There are hundreds of Members here and many of them may be on committees and some may be disqualified. We have all our political enemies and any one can go to the Supreme Court after this Act is passed and get a particular Member disqualified.

On page 213 of May's Parliamentary Practice under "Offices without salary", it is stated:

"What constitutes an office, or place, one of profit is often a question of difficulty as well as urgency, in view of the heavy penalties which a common informer might obtain against a Member who inadvertently sits while holding a disqualifying office."

And then an illustration is given:

"Because of the complexity of this question, acts of indemnity to save office-holders from possible penal consequences have frequently been resorted to. When in 1941 a sitting Member (Mr. A. Jenkins) had accepted the office of chairman of the local appeal board for a Royal Ordnance factory, it was found necessary to pass the Arthur Jenkins' Indemnity Act, 1941. In the words of the Minister who moved the second reading, this was 'not an appointment to which there is a salary attached in the ordinary sense of the word, but there is a certain small sum payable for sitting. Mr. Jenkins.....did not take that fee, but...there is no doubt that, as the law now stands, it is an office of profit under the Crown, though it is not in the colloquial sense an office at all, and in this particular case, though the fee was payable, it was not accepted, so there was no profit.'"

But all the same, an Indemnity Act had to be passed. The hon. Prime Minister has rightly said that there is no doubt about Deputy Ministers and others. That is perfectly right. But if this is passed to-day, to-morrow somebody may go to the Court and the Court will say, so and so Member is disqualified. A doubt has arisen even in the mind of the hon. Law Minister. Personally we felt that these places cannot be considered offices of profit; but suddenly we were told last evening that it may be an office of profit, and here I have come across a case in this book which has necessitated the passing of an Indemnity Act. In view of this I suggest the words "any committee" should be added so that this difficulty may be removed. That is my humble submission, and if this is done, the whole difficulty will be removed. Otherwise if the question is raised, either the Government may say, "You cannot remain here, or you get out from the Committee". That is one part of it. It is not as if anyone is anxious to be on any committee, but the Government themselves may want us on committees, and in that

case, how will they get over this difficulty? I am not imagining a difficulty. But facts have been brought before us and when facts are brought before us, let them not be left alone. The hon. Law Minister may also bear this in mind when replying.

Prof. Ranga (Madras): I am sorry I cannot agree with my friend Mr. Sidhva. If you are going to allow Government to enjoy this privilege of appointing a large number of Members of any Legislature in the States and also this Legislature to a number of Committees appointed by the Government, and also allow Government to give these Members not Rs. 40 that they are entitled to as Members of this House, but also as members of various standing committees—and they are entitled to their usual T. A.—what I say is, if special allowances either as fee or honorarium or salary are also to be paid, then it would be possible and it might come to this, that an unscrupulous Government may be able to stuff the whole House with its own placemen and turn the House into a mockery. And this is exactly what happened in 1760 when King George III was ruling in England. He tried his best to keep his own placemen in Parliament and in that way assured himself of a majority of King's Party. It was to prevent this that Edmund Burke had carried on a relentless fight against that practice and it was as a result of that fight that this convention came to be accepted by Parliament, that no one who accepts a place of profit would be allowed to become a Member or to continue to be a Member of Parliament. Under the other administration there used to be one Member here—I do not want to mention his name—who was appointed India's representative in Burma and he was at the same time allowed to remain a Member of this House. We took special exception to that, but Government simply said, "we pass a special Ordinance or special legislation." Now, what happens if Mr. Sidhva were to be appointed member of the Public Service Commission?

Shri Sidhva: That will be different.

Prof. Ranga: Or a member of the Tariff Board?

Shri Sidhva: That is also different.

Prof. Ranga: It is not different.

Shri Sidhva: It is a whole-time work.

Prof. Ranga: All right, suppose it is a part-time work, suppose he is appointed member of a committee which has got to carry on only for a couple of months and for these two months he is not given the Rs. 40 to which he is entitled as Member of this House, but he is given, say Rs. 2,000 or Rs. 3,000 as salary and.....

Shri Sidhva: I am not referring to salary.

Prof. Ranga: Well, then call it by a different name, honorarium, over and above the Rs. 40 then what will be the position?

Dr. Deshmukh: Most of the Members are paid only half of that, only Rs. 20.

Prof. Ranga: I know that, that we have all had experience of having to receive less than what we were entitled to as Members of this House. But let us take this case. Supposing Government is paying an honorarium or special allowance, and in that way pays on to as many Members as possible, in order to assure itself of an artificial majority, are we going to stand that? That is a risk that is likely to happen if my hon. friend, Mr. Sidhva's suggestion is accepted or his interpretation is accepted. I am anxious that we should think not only in terms of the present Government, but we should think also of Governments which may not be to our liking, and such a Government may try to use this kind of thing to decrease the freedom of Members of the House, say by giving them various kinds of inducements and that sort of thing. Therefore, I say this Bill is very necessary, and....

Shri Tyagi : They can do it by appointing a number of Ministers as well. They have not limited the number of Ministers as was done by the British Parliament.

Prof. Ranga : There is this difference that when a man becomes a Minister, when Mr. Tyagi or anyone else.....

Shri Tyagi : Thank you.

Prof. Ranga : When he becomes a Minister he holds himself openly responsible to the House as a whole. On the other hand, if one were to be appointed as a member of some committee or other, in addition to his being a Member of this House, he is not so easily and directly responsible to the House. Therefore, I submit that this Bill as it is, should be passed, without the amendment that Mr. Sidhva is suggesting.

Mr. Deputy-Speaker : May I suggest to hon. Members that in as much as it is a matter of law and as the hon. Law Minister who was mostly in charge of it while it passed through the Constituent Assembly is here, I may call upon him straightway to explain the position, instead of spending any more time on this matter. We have discussed the merits of this Bill sufficiently I think.

Syed Nausherali : Sir, I have to urge one or two points which have not been brought out till now.

Shri T. T. Krishnamachari rose —

Shri Jawaharlal Nehru : Perhaps if the hon. Law Minister explains the position that may do away with a lot of arguments. I am not suggesting that the debate should be put an end to, but if he explains the situation it might help.

Mr. Deputy-Speaker : I will call upon the Law Minister to explain the position and if any Member wants to raise any new point he can do so later.

Pandit Kunzru : Will it not be better if the hon. Law Minister waits for a quarter of an hour more? Did he not say all he had to say? Is he in a position to add anything to it just now?

Mr. Deputy-Speaker : Several points have been raised and the discussion has been going on at very great length and so if the hon. Law Minister explains the position now there may not be the need for any more discussion. I think almost all the points have been raised already. Let us hear the Law Minister and if there is any other Member wanting to speak, then I shall come to other Members.

Pandit Kunzru : Then is it the position that we shall be allowed to express our opinions later, after the Law Minister has spoken?

Mr. Deputy-Speaker : Yes. And once again he will speak.

Dr. Ambedkar : On the first point raised by my friend, Mr. Tyagi, as to whether there is at all any necessity for bringing in this measure, I think what has fallen from the Prime Minister should suffice, and I would only like to add this by way of clarification: Our real difficulty has arisen by reason of the fact that the definition Article, Article 366, does not define the word "Minister". Therefore the word "Minister" is left to be interpreted in two ways, either in the larger sense which would include not only Members who are Ministers but also Members who are Deputy Ministers or Ministers of State. It would also include in the popular sense Parliamentary Secretaries and also Parliamentary Under-Secretaries. That is one interpretation which is perfectly possible, but it is also possible to put a narrower construction whereby Ministers would mean not Ministers including Deputy Ministers, Ministers of State, Parliamentary Secretaries or Parliamentary Under-Secretaries, but only Members of the Cabinet. As the House knows that there is customarily—I am deliberately using the word 'customarily'—quite a distinction between Ministers who are Members of the Cabinet and Ministers who are not Members of the Cabinet, and it is quite possible for anybody, even for a Court, to put the narrower construction and confine the *de jure* interpretation of the word "Ministers" to Members of the Cabinet only, in which case undoubtedly.....

Pandit Kunzru : Which Court is my hon. friend referring to?

Dr. Ambedkar : Any Court. I am coming to that also. I was only speaking generally. Any person may question that interpretation. If that interpretation is questioned, obviously, there would be difficulties. Therefore, it is by way of caution, by way of removing any kind of doubt or difficulty that this Bill has been brought in, and as I said, if the interpretation given by my friend, Mr. Tyagi, was upheld in a place where such question was likely to be raised, no one would be unhappy if it was then found that the Bill was unnecessary, but if unfortunately notwithstanding the great argument, the extensive argument, the original argument addressed by my friend, Mr. Tyagi, it was found that that construction was not the correct construction, then it would be obvious that the Parliament did wise in passing this Bill. Therefore so far as the exact provisions of the Bill are concerned, I think a cautious House ought to support them. I would not say anything more on that point.

In regard to the other question, *viz.*, disqualification incurred by Members of the House by reason of the fact that they are holding some kind of office which is outside the Ministerial offices.....

Shri Sidhva : I mentioned Committees.

Dr. Ambedkar : That is why I said non-Ministerial offices. I am using the exact legal term. That question, I think, requires to be considered. That question was raised yesterday after Parliament rose, but unfortunately when I went to my room, I found that all the libraries were closed and I could not get the necessary books of reference which I wanted to consult, because I knew that this matter would be raised in the House and I thought that I should be prepared to give some kind of reply as far as I could under the circumstances. I have applied my mind to this matter and all I can say is that I have come to some tentative conclusion which I should like to present before the House.

In the first place I should, like to remove the sort of scare which has been raised by my friend, Mr. Sidhva, that any enemy of his might create trouble. I hope he has none. I think he is one who may be correctly described as *Ajatashatra*. Anyhow, our Constitution has made ample provision that matters of this sort relating to disqualification should not go to a Court. By Article 103 we have left the power to decide whether any particular Member of Parliament has incurred a disqualification by reason of accepting an office of profit or not, with the President. The President is the final authority. Under Article 103 the President has been released—very deliberately and very wisely—from acting on the advice of the Ministry, because it was felt that the Ministry might give an interested advice to the President. Therefore in this particular case relating to disqualification arising out of holding an office of profit, the President is required to act on the advice of the Election Commissioner.

Shri Kamath : What about clause (2) of Article 103?

Dr. Ambedkar : I am coming to that. Article 103 is, so to say, an exception to article 74. Under Article 74 the President is required to accept the advice of the Ministers in all matters relating to legislation and administration. With regard to this, an exception has been made, and as I said, a deliberate exception has been made so that no political influence could be brought to bear on the decision of the question by the President.

Shri Kamath : Which is the body which acts for the Election Commissioner now?

Dr. Ambedkar : We are immediately constituting the office of the Election Commissioner, and I have no doubt about it that before any such question is presented to the President, the Election Commissioner will be there to deal with the matter.

Shri Kamath : In this particular case, clause (2) of Article 103 which is mandatory has not been observed.

[Shri Kamath]

Clause (2) says :

"Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion."

Mr. Deputy-Speaker: No such question has been referred to the President.

Shri Tyagi rose—

Dr. Ambedkar: Sir, I cannot answer to all these petty questions which have no bearing on the question. My friend, Mr. Sidhva, had suggested to the House that any number of people could go to the High Court or the Supreme Court and obtain a decision. That procedure is barred under the Constitution. That matter is left entirely to the President.

Now I come to the other question which Mr. Sidhva very pointedly raised as to what would happen to Members of Parliament who have been appointed to various Committees. Would they incur disqualification or would they not incur disqualification? Now, I have here before me an analysis of the various types of Committees on which Members might be invited to serve and where they might get some sort of remuneration or fee or something. The first is this: Membership of Committees or Commissions constituted by a resolution of Parliament or under rules made by Parliament, for instance, the Public Accounts Committee, the Estimates Committee, the Standing Committees attached to various Ministries, etc. There might be various others, but the substantial point is that Committees are appointed by a resolution of Parliament or under the rules made by Parliament. I speak of course without any kind of dogmatism but I do not feel any doubt that the membership of any such committee would involve any disqualification, for the simple reason that the appointment is made by Parliament either by rules relating to any particular committee or generally by rules framed for the constitution of committees.

The second class of membership relates to all corporate bodies constituted by an Act of Parliament, such as, for instance, where an Act provides for the election of Members by Parliament either from among its Members or from outsiders, for example the Indian Oilseeds Committee, the Indian Nursing Council, the Employees State Insurance Corporation or the Central Silk Board. Under the same category are also cases where such Members are appointed by the Central Government, such as, for instance, the Coal Mines Stowing Board, the Delhi Transport Authority and so on. I am only expressing here my tentative conclusions and it seems to me that under the first category where Parliament provides for the election to certain statutory bodies that could not be regarded as an appointment by Government and therefore membership of a committee like that, in my judgment, would not involve any disqualification. But with regard to the second category where such Members are appointed by the Central Government I feel a certain amount of doubt. I think that that probably might involve a certain disqualification, for the simple reason that although the bodies to which appointments are made are statutory bodies created by a law enacted by Parliament, yet the appointment is by Government. Therefore that is one element to be taken into consideration in deciding whether the possible consequence may not be disqualification. It is possible to make a further distinction, namely, that a Member of Parliament appointed by Government to a statutory body such as under the Coal Mines Safety (Stowing) Act or the Delhi Transport Authority may be paid out of the funds belonging to that particular authority and not from funds belonging to Government: whether that would be a possible basis for distinction I have my doubts. I personally think that that would involve disqualification, because it may be regarded and interpreted as a fraud upon the Statute, by getting a Member of Parliament to be appointed but to be paid by somebody else. I think that is a case which must be excluded.....

Shri T. T. Krishnamachari (Madras) : It is not considered as falling into that Category.

Dr. Ambedkar : I do not know. My friend Mr. T. T. Krishnamachari will allow me to say that I have not slept the whole of last night. I have been reading Halsbury and a number of other books, as the subject is so complicated. Anson's is the only book I have which could give some guidance and I shall pass it on to him. It was published in 1922 and probably it gives the best assistance in this matter. My hon. friend will have his right to speak and here I am only expressing my tentative conclusion.

Shri Kamath : The Hon. Minister will have good sleep tonight.

Shrimati Durgabai (Madras) : What is the position in regard to the All-India Nursing Council constituted under an Act of Parliament ?

Dr. Ambedkar : Probably that would not involve any disqualification. Now I come to membership of Advisory Councils or committees constituted under an Act of Parliament or appointed by a statutory corporation. Take for instance the Damodar Valley Corporation. As I said, I am not certain about it also. (*Interruption*) I am not advising any particular client. I am very sorry to say that. I am making a general statement. If the hon. lady is interested in the Nursing Council she had better go to a lawyer and obtain his advice.

Shri Sidhva : That is not fair.

Shrimati Durgabai : You said that Coal Mines Safety (Stowing) Act does not come under the disqualification.....

Dr. Ambedkar : I looked it up overnight and found out what the provisions were.

Then I come to membership of committees, Commissions or Councils or other similar bodies constituted by Government for specific purposes by resolution or order, for instance, membership of the Governing Body of the Indian Council of Agricultural Research, membership of the Fiscal Commission, membership of the Government Trading Enquiry Committee (*Interruption*) I do not want to hide anything—membership of the Special Recruitment Board, representatives or delegates to United Nations Organisation or any international conference or association. I feel rather doubtful about membership of committees, commissions or councils or other similar bodies constituted by Government for a specified purpose by resolution or by order.

As I have stated my view is that in certain cases Members of Parliament would not be affected. In certain cases they might be affected. As my friend Prof. Ranga said—and I wholeheartedly agree with him—this question of disqualification by reason of holding an office of profit is one of the most important matters. It has been and could be a tremendous influence for corruption and therefore we have to proceed very carefully in this matter. In England I do not know what they do but I have found that they have no general law as such. Whenever they make a law under which they create a particular office, in that very Act they provide whether the holder of that office shall be deemed to be disqualified for being a Member of Parliament, so that no general theory is there. Each case is dealt with particularly and Anson's Vol. I gives quite a long list. There every Act is mentioned and the office it has created and whether the holder of that office under the particular Act shall continue to be a Member of Parliament or not. I am afraid we have therefore to be very cautious.

One thing I am prepared to admit, namely, that those Members who are already holding office, which, as I said, might lead to disqualification, if they have to give up their offices immediately, administrative difficulties might be created. The work might be held up and it might be possible and even desirable to have a short measure removing the disqualification from the holders of those offices for the present,

[Dr. Ambedkar]

so that we would get sufficient time later on to consider what general principles we should adopt. If there is a certain amount of delay in carrying out the suggestion which I have made, we can rectify it by passing an Indemnity Act, giving it retrospective effect, so that all those who are holding offices today need not be in danger of incurring any such disqualification. I do not think that we can really rush into this matter and have a general clause exempting anybody and everybody without either proper consideration or examination. I admit that if the disqualification applied without any qualification to Members who are working on various committees, some difficulties might be created. If the House so desires I would be quite prepared to consider a small measure of one clause and bring it before the House to give it retrospective effect and also to add to it an indemnity clause, so that if there is any lacuna in the legal position a Member will not be deemed to have vacated his seat. More than that I am afraid I cannot do at this stage.

With regard to the omission of part-time offices from the Bill I think the reply that I have given, namely, that you have to be very cautious in extending the principle of exemption to holders of office, applies to them also. I may say that the original clause in the Ordinance was taken from the war-time Ordinance which was Ordinance LII of 1942. My friend Mr. Kamath will realize that it is perfectly legitimate to widen the principle in an emergency when there are so many offices to be filled and the number of men available is so few that we have necessarily to go to Parliament to pick up Members to officiate on those occasions. But what is necessary in war-time and in an emergency should not be applied in normal times. That was the consideration which prevailed upon me in deleting the clause which originally found its place in the Ordinance.

Shri Kamath : Was it not the Law Ministry itself which drafted the Ordinance ?

Dr. Ambedkar : The Law Ministry can forget and also be forgiven. The Law Minister is not omniscient. I live to learn, and if I can learn from my friend Mr. Kamath I shall be only too grateful. This is all that I have to say.

Shri Kamath rose---

Mr. Deputy-Speaker : We have only three minutes to adjourn for Lunch. I hope the hon. Member would not take more than three minutes.

Shri Kamath : There are some legal and constitutional points which I have to make and I will take more than three minutes.

At the outset may I make it clear that in my judgment—I have learnt a lot from Dr. Ambedkar during Constitution-making and I have much more to learn from him; I wish to reciprocate the compliment—there is no need to rush or hustle this Bill through, because even if this Bill were passed by this House before this midnight, that is, of the 10th, it will not, constitutionally speaking, validate the membership of the Deputy Ministers and the Ministers of State; it will not remove the disqualification which they have incurred already.

Dr. Ambedkar : With your permission, Sir, I would just like to mention that there is nothing original in this point. It is borrowed from the view of the Patna High Court. But I find both my friend Mr. Tyagi and Mr. Kamath are making this point. The President is not the court; the President may take a very different view from what the court may take.

Shri Kamath : The only mistake that was committed by those who were in charge of this matter was this, that instead of advising the Deputy Ministers and the Ministers of State to formally resign their offices before the 25th-26th midnight, they let them continue in office. Had they advised them correctly, had the Law Ministry or whoever was in charge of the matter—I do not want to apportion the blame—had those Ministers or other experts who were in charge of this matter advised the Ministers of State and the Deputy Ministers to resign their offices a minute before the midnight of the 25th-26th, they would not have incurred any

disqualification and then they could have been reappointed on the 26th, after the Ordinance had been passed by the President. That was not done. It is open even now to anybody—I do not say we will do it, but anybody outside can do it to take the matter to the court.

The Minister of Works, Mines and Power (Shri Gadgil) : Let him do that job, why do you worry ?

Shri Kamath : I would therefore suggest to my hon. friend even to bring an indemnity measure, if necessary, today, before the Bill is passed, or simultaneously with it. That is the first aspect of the matter.

Shri T. T. Krishnamachari : But they were actually sworn in afterwards.

Mr. Deputy-Speaker : As the Speaker has already ruled, the condition of the existing Deputy Ministers and Ministers of State need not be considered here. This Bill is in general terms. The point about their being Ministers without having to be Members, one way or the other, will be decided by the President in consultation with the Election Commissioner if it is referred to him. The hon. Member may go to other points.

Shri Kamath : The Constitution does not make that clear at all. It refers only to Cabinet Ministers, as Dr. Ambedkar said, and that was why the Ordinance was promulgated by the President.

Sir, the next point is this.

Some Hon. Members : It is time for the House to rise.

Mr. Deputy-Speaker : Hon. Members are giving him a little more time ?

Shri Kamath : Because of the legal points in which my hon. friend Dr. Ambedkar is interested.....

Dr. Ambedkar : I am interested only in getting the Bill through.

Mr. Deputy-Speaker : The House wants to rise evidently. The House stands adjourned till 2-30.

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

The House re-assembled after Lunch at Half-Past Two of the Clock.

[MR. DEPUTY-SPEAKER *in the Chair*]

Shri Kamath : Sir, the Law Minister is not here.

Shri Sidhva : The Minister of State for Parliamentary Affairs is there.

Mr. Deputy-Speaker : Yes.

Shri Kamath : Oh, the Law Minister has come.

I am glad that my hon. friend has arrived in the nick of time. I am glad also that in the forenoon he admitted—casually, of course—that a mistake, constitutional though technical, had been committed in respect of this matter.

Dr. Ambedkar : I have not admitted any such thing at all.

Shri Kamath : He referred to the Patna High Court ruling and said that Mr. Tyagi and myself are taking a stand upon that ruling and that we need not go very deep into that aspect of the matter. He further went on to say that he is not interested in legal issues or legal points—he is interested in merely getting the Bill passed or rushed through, I do not remember what was the word he used. May I ask you, Sir, and the House, that if the Minister of Law is not interested in legal points who would be interested in legal points?

Mr. Deputy-Speaker : Leave that alone.

Shri Kamath : Sir, that concerns the right of the Members of this House. The Minister of Law is there and he says that he is not interested in legal points.

Dr. Ambedkar : I am interested in the merits of the case.

Shri Kamath : Sir, legal points to a Law Minister at least—if he means to be a Law Minister in truth, in fact and in earnest—must be as much a case of merit as of law.

Mr. Deputy-Speaker : What is the good of misunderstanding the hon. the Law Minister ? He says, "So far as the law is concerned, leave it to me. Please tell me facts if there are any".

Shri Kamath : I am sorry, Sir, you did not hear him correctly, and I must protest against this attitude on the part of the Law Minister.

Mr. Deputy-Speaker : I do not think there is any such intention on the part of the Law Minister. Let the hon. Member go on.

Shri Kamath : I am sorry that there is this hurry for rushing the Bill through. The other Bills are not covered by Ordinances.

Mr. Deputy-Speaker : It is no good having that impression at all. Enough time has been given to Mr. Tyagi. The hon. Member may take his own time, but it is no good going on saying that the Minister is not interested and so on. These points are not relevant to the facts, whether they are proper or not. Let the hon. Member enlighten the House with fresh points if there are any and if there are none more let him resume his seat.

Shri Kamath : May I ask on a point of right as a Member of the House whether if a Minister takes a particular stand, a Member cannot raise a point of privilege of the House ? I do not know what the future has in store for him ; he perhaps is thinking of some other portfolio. I do not know anything about reshuffling of portfolios but there are lots of reports in the papers. But I feel that it should not have been stated in the House that a Minister of Law is not interested in legal points.

Dr. Ambedkar : Parliament is not a Court.

Shri Kamath : Parliament is the supreme legislative body in the country and the word "Legislative" is the adjective of "Law". If that much is not clear to my hon. friend, I am sorry for him.

Now, Sir, the hon. the Law Minister in his speech yesterday stated as follows. I am reading from the uncorrected copy of the Reporters, but if there is any mistake in that, I hope the Law Minister will correct me as I read it. The corrected copy is not available in the Library, and I could only get an uncorrected copy from the Library of the House.

Dr. Deshmukh : Is it allowable for a Member to quote from such a document. Sir ?

Mr. Deputy-Speaker : The hon. Member is taking his own time. Other hon. Members may allow him to proceed.

Shri Kamath : He said there was a difficulty which was encountered by the Government, and particularly perhaps by the Law Ministry which was advising the President in this matter.

"In order to get over the difficulty the Government issued an Ordinance permitting them....."

"them" means the Ministers of State and the Deputy Ministers,—

".....to sit in Parliament and to remove the disqualification they would have otherwise incurred. As hon. Members know, under the new Constitution, the life of an Ordinance is a very short one, viz., six weeks. In this particular case the life of the Ordinance began on the 28th January....."

That is, the first day of the session,—

".....so that it would now expire on the 12th of this month. It is necessary that this Bill should be got through before the Ordinance ceases to have legal operation."

Now, one point that arises in this connection is this—might be a narrow point, might be a very legal point. The Statement of Objects and Reasons of this Bill does not refer to the Ordinance that has been passed already. The speech of the hon. Minister tends to show that the Bill seeks to replace the Ordinance, but the Bill is not identical with the Ordinance. The Minister himself has admitted that the Bill is not identical with the Ordinance inasmuch as sub-clause (b) of the Ordinance has been deleted. Now, therefore, the narrow legal point is this : whether in a Bill, if and when it is brought before a Legislature, which seeks to replace an Ordinance previously promulgated, it is open to Government to make alterations which are substantially different from the Ordinance which the Bill seeks to replace. I am not talking of verbal alterations—that is a different matter. These are alterations in substance.

Mr. Deputy-Speaker : What is this point ? Is it a point of order ?

Shri Kamath : Sir, these are the merits of the Bill.

Mr. Deputy-Speaker : It is open to the hon. Minister to bring any Bill before this House. He does not say he is going to copy, nor is he bound to copy, the Ordinance. What is this point ? Is it as a matter of law or as a matter of substance ?

Shri Kamath : As a matter of law.

Mr. Deputy-Speaker : How is it a matter of law ? I rule it out of order as a matter of law.

Shri Kamath : If you rule it out, then I proceed further. There is no quarrel about that.

The next point that arises is this. You, Sir, were pleased to observe in the forenoon, when the Prime Minister intervened in the debate, that, though no Parliamentary Secretaries or Parliamentary Under-Secretaries are here, this Bill refers to them : there might be those office-bearers and office-holders in the States and this Bill must make provision for that contingency.

Mr. Deputy-Speaker : I am sorry I myself had doubts later and I am intending to ask the hon. Minister why he has introduced the words "or the Government of any State". This Bill is confined only to the Parliament and to the disqualifications of Members of Parliament. Whether any person who is employed by a State Government somewhere else than the Centre as a Parliamentary Secretary can be a Member of Parliament,—whether that is the intention—is a matter on which I intend to find out the position from the hon. Minister. At first sight, it appeared to me that these words were intended to cover Parliamentary Secretaries in the States, but I have later had doubts, and I find that this Bill is only intended to remove the disqualifications of Members of Parliament. Therefore, the hon. Member need not dilate upon that point.

Shri Kamath : I am thankful to you for the clarification.

Dr. Deshmukh : But such a Bill is necessary even for Parliamentary Secretaries under the Constitution.

Shri Kamath : But so far as Parliamentary Secretaries in the States are concerned, we must leave the matter to the States Legislatures, because they have power to deal with it : there is an article relating to it.

The other point that arises in this connection is this. The Bill that is before the House refers to the following offices of profit in the Government of India or the Government of any State : The office of a Minister of State or a Deputy Minister; the office of a Parliamentary Secretary or a Parliamentary Under-Secretary. In view of the fact that the words "or the Government of any State" are mentioned here, is it the contention of the hon. Minister that it is possible that a contingency may arise where a Minister of State or a Deputy Minister in one of the States—in one of the States, not in the Centre—may become a Member of Parliament ? If that is so, I would like to know ; because the Constitution does not refer to

[Shri Kamath]

Ministers of State or Deputy Ministers in the States, just as it does not refer to them at the Centre. The only provision in the Constitution relating to Ministers not being Members of Parliament or of a State Legislature is, I think, Article . . .—I need not quote the Article, because Dr. Ambedkar, I have no doubt, is quite sure of the relevant Article on the point whereby a Minister can hold office for six months without being a Member of a Legislature. Therefore, if we interpret the Constitution correctly, it follows that a Minister of a State or a Deputy Minister cannot hold office unless he is a Member of the Legislature, and the Constitution bars a person from holding membership of two Legislatures ! Therefore, to my mind, this contingency—namely, of a Minister of State or a Deputy Minister in one of the States, holding that office and being chosen as a Member of Parliament,—that contingency will never arise if we are true to the Constitution, because, under the Constitution, a Deputy Minister or a Minister of State must be a Member of the Legislature : only a Cabinet Minister in the States being allowed to be a Minister without being a Member of the Legislature. Therefore, there is no need and it is absolutely redundant and superfluous, for the purpose of this Bill, to include the States in it. It is clear, as I have said, that this contingency can never arise under the Constitution. As regards Parliamentary Secretaries and Parliamentary Under-Secretaries, as you have already stated, this Bill does not refer to those office-holders in the States ; it refers only to the Centre and the Central Parliament. Therefore, I feel that this reference here to the "Government of the State" is unnecessary, wholly superfluous and redundant, pointless and purposeless, and I fail to see how the Law Minister or any of his advisers—expert though they be—could have taken it into their heads to include this phrase when it has no relevance at all to the subject in hand.

Next, Dr. Ambedkar, in his speech yesterday, —if I may say so—tripped slightly ; made a slight error. It may be that it was due to forgetfulness that had supervened at the fag end of the day. He said :

"The present Bill does not propose to give effect to sub-clause (b) of the original Ordinance which made provision for part-time offices. Instead of that....."

mark the words "instead of that"—

"the Bill seeks to include two more officers, viz., Parliamentary Secretaries and Parliamentary Under-Secretaries."

Now, the Ordinance, of which I have got a copy from the Library, says—I am reading clause (2) (a)—

"A person shall not be disqualified for being chosen as, and for being, a Member of Parliament by reason only of the fact that he holds any of the following offices of profit under the Government of India or the Government of any State, namely :

(a) an office of a Minister of State or a Deputy Minister or a Parliamentary Secretary or a Parliamentary Under Secretary....."

Now, the Ordinance does mention the offices of a Parliamentary Secretary and a Parliamentary Under-Secretary. I do not know on what basis the hon. the Law Minister stated that it makes no reference to these two offices and that they have been newly added in the Bill before the House.

Dr. Ambedkar : Therefore, the Bill should be thrown out ?

Shri Kamath : No, no. I am referring to the anomaly.

Dr. Ambedkar : You are cleverer than I. Your memory is better than mine. I am prepared to make a gift of that point to you.

Shri Kamath : I am sorry that Dr. Ambedkar's arrogance in the Constituent Assembly has not left him. I am sorry that a Minister of Government should treat the House in this fashion. I am sure he has absolutely no right to treat the Houses in the fashion he has been doing and must protest against the way in which he has been behaving towards the House. I hope he will mend his manners before he proceeds further.

Mr. Deputy-Speaker : Is not the hon. Member indirectly casting aspersions on the other Assembly ?

Shri Kamath : Which Assembly ? I am not referring to the Assembly. I am only referring to the Minister, to the person concerned and not anyone else.

Mr. Deputy-Speaker : I hope there will be no more interruptions, so that we may go through the business as early as possible.

Shri Kamath : I have never heard of such a thing anywhere else in the world. I have never seen a Minister treating the House like this elsewhere. It is unheard of.

Dr. Ambedkar : Why are you talking for the House ? Talk for yourself.

Shri Kamath : I do not like to follow your example and talk for myself.

Mr. Deputy-Speaker : Neither the House nor any Member thereof should be treated in any fashion other than what he deserves—I mean, other than respectfully. I do not make any distinction between a Member and the House. However, the hon. Member may drop this matter and go on with his speech.

Shri Kamath : Now, Sir, the last point is this. As I was saying just now, the Bill and the Ordinance refer to certain new offices that are being created. It would be pertinent to ask the Government — I would not like to mention the Law Minister, the Government is one, and the Law Minister may do as he likes: I am taking of the Government, as they have brought forward the Bill—I want to ask the Government, when they have thought it fit to create these two new offices which do not exist at present and the possibility of whose creation they have foreseen in the near or distant future,—when they have done that, I would respectfully suggest to the Government, if they are thinking of certain offices which might come into being in future, whether it would not be wise to think of all categories, possible or probable ? Today perhaps they have got only in mind Ministers of State, Deputy Ministers and Parliamentary Secretaries or Parliamentary Under Secretaries. Would it not be wise to include in this category junior Ministers or assistant Ministers too ?

Now, I would refer briefly to the point raised by my hon. friend Shri Sidhva. The Law Minister, replying to that part of the debate in the morning, in his own inimitable manner, summarily disposed of the point raised by my friend Shrimati Durgabai. To my mind at least she did make very important, pertinent and relevant point.

Mr. Deputy-Speaker : There is no good misunderstanding the hon. the Law Minister. What he said was that he examined certain of the categories. He narrated them and said that, as he had his own doubts, he was looking into those categories of cases, adding that they were matters which needed lengthy consideration. At that stage Shrimati Durgabai stood up and asked him 'What about the Nursing Council?' The hon. Minister might not have examined the details of the constitution of the Nursing Council. Therefore, he said that that was a matter which required to be looked into independently later on. It is not as if the Minister claimed to have looked into all the cases. He gave only certain instances and categories. Under the first category came the membership of committees appointed by Parliament for which allowances were paid. He mentioned a second category and also a third category. There is no good referring to all that now. It is not as if the Law Minister can carry all the law in his brain. If any particular point is raised, he will study it and give his opinion. It is no good repeating the statements made already. I do not think, so far as this point is concerned, there is anything new to be said.

Shri Kamath : I am deeply grateful to you, Sir. I wish the Law Minister was as courteous and dignified as you are.

Mr. Deputy-Speaker : I do not think there was any insult offered.

Shri Kamath : Coming to the concrete case about which the Law Minister said that he could not give any definite opinion at the time and that if doubt arose in the minds of Members they should refer to lawyers,—as regards the Committees appointed by Government,—I would like to know exactly what induced the Government, at the time of issuing the Ordinance or at the time of drafting it or getting it signed by the President, to include in section 2(b) of the Bill certain categories and what induced them subsequently to delete them from the section. The point at issue is this. I can understand the argument that in the case of membership or chairmanship of Parliamentary Committees, it is not an office of profit under the Government. That is plain and clear. But in the case of committees appointed by a Ministry on behalf of Government or by Government as a whole, the question should not be left in doubt when we are considering a certain measure dealing with the inclusion or exclusion of certain offices of profit from the scope of it. There are many Members in the House who hold certain offices.....

Mr. Deputy-Speaker : I hold that further reference to these allowances is not quite relevant. Those are beyond the scope of the Bill. I do not think they are relevant particularly in view of the fact that the hon. Minister explained at great length that in as short a time as possible he will consider the matter and bring forward another Bill.

Shri Tyagi : May I make a humble suggestion, Sir ?

Mr. Deputy-Speaker : The hon. Member has had his say on this Bill.

Shri Tyagi : I wish to say something on the ruling that you just now gave.

Mr. Deputy-Speaker : I have heard the hon. Member on this measure.

Shri Tyagi : I want to say something on your ruling.

Mr. Deputy-Speaker : Again and again how can hon. Members go on speaking on a motion on which they have spoken sufficiently long?

Shri Tyagi : Sir, I rise to a point of order. Just now you were pleased to give a ruling that all matters which the House wants should be put into this Bill may not be discussed. I respect it. But, on a point of order, I submit that the House has a right to differ from what the hon. Law Minister has said and introduce new ideas. We accede to your desire, but, Sir, do not make it a ruling. That is all I want to submit.

Shri Kamath : I would only ask the Minister in charge of the Bill to explain to us, later in the course of the day, what was intended by the inclusion of clause 2(b) in the Ordinance when it was promulgated. It reads thus.....

Mr. Deputy-Speaker : It has already been read in the House. There ought to be no repetition of it by the same Member or by some other Member.

Shri Kamath : I did not read it.

Mr. Deputy-Speaker : Mr. Tyagi read it out.

Shri Kamath : He referred to it, but did not read it out.

Mr. Deputy-Speaker : Why should it be read at all, when the substance of it has been given ?

Shri Tyagi : I read it to the House Sir.

Shri Kamath : At this rate I do not know what can be said and what not.

Mr. Deputy-Speaker : There is no good referring to matters in that manner. The hon. Member has forcefully stated the points he has got. If he has no new points he can sit down.

Shri Kamath : If you ask me to sit down, I will, I am in your hands.

Mr. Deputy-Speaker : I am here to see that no repetition is made. If the hon. Member has stated what is necessary, he need not prolong this discussion unnecessarily.

Shri Kamath : It is for you to say what is necessary and what is not necessary. To my mind, an office, though a part-time office may be remunerated not merely by salary, but, as the hon. Member said, by 'fees'. I do not know what is meant by the term 'fees' and whether it covers all sorts of fees including allowances. As regards salaries, there was a Committee appointed by Government—The Economy Committee—last year, members of which were paid salaries and yet they were Members of Parliament. What will happen in such cases? I know Mr. S. K. Patil was one of the 3 P.M. Members of Parliament. Can it happen again when the Bill is passed? As the Ordinance refers to 'fees', what exactly was in the mind of the draughtsmen of the Ordinance when the word 'fees' was included? Could it not be covered by the term 'allowances'? In that case why has this thing been deleted in this Bill.

Mr. Deputy-Speaker : I definitely give the ruling that what appears in the Ordinance is not the subject-matter of the discussion because hon. Members have not got the Ordinance before them nor has it been brought for approval or continuation and therefore the hon. Minister is not bound to answer these questions nor do I allow these questions.

Shri Kamath : The Law Minister referred to the Ordinance.

Mr. Deputy-Speaker : I have ruled it now that even those portions are not quite relevant.

Shri Kamath : If it is your ruling that those portions of the speech are irrelevant, and I am glad you say so—then I do not think those points will remain in doubt. As you have ruled that I cannot speak on this point, I need not dwell on that. I shall take some other opportunity to place my views before the House.

Pandit Kunzru : The Prime Minister explained to us the reasons that had prompted Government to bring this Bill before the House. According to him, the view of the Government with regard to the position of Ministers of State and the Deputy Ministers is the same as that of a good many hon. Members. But nevertheless as Government had been told that their view might be challenged by anybody, it had been considered necessary to bring forward this Bill. Now, I should like to know who told the Government of India that their view was not free from doubt. I suppose it was the Law Ministry that expressed the opinion that the position required clarification and that this clarification could be obtained only by having a Bill passed by Parliament. We may, therefore, well expect the hon. Law Minister to tell us what were the doubts that arose in the mind of the Law Ministry on this subject. The House must be anxious to know this particularly because he himself was the Chairman of the Drafting Committee that guided us and that drafted the various articles of the Constitution of India.

Again, I should like to know what the exact position of the Ministers of State and the Deputy Ministers at present is. Take the Ministers of State. How are they appointed? Article 74 of the Constitution says—

"There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President in the exercise of his functions."

Now, do the Ministers of State belong to the Council of Ministers or not? Are they regarded as persons who aid and advise the President in the exercise of his functions or not?

Shri T. T. Krishnamachari : They are only abettors.

Pandit Kunzru : I want to know how they are appointed. Are they appointed like Parliamentary Secretaries by the Prime Minister or are they appointed by the President on the recommendation of the Prime Minister just as the other Ministers are? If they are appointed by the President on the recommendation of the Prime Minister in the same way as other Ministers and belong to the Council of Ministers whose function it is to aid and advise the President in the exercise of his function how does any doubt with regard to their legal position arise? If they are not supposed to belong to the Council of Ministers or are not appointed by the President,

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then their position will be different to that extent from that of the other Minister. But if they are appointed in the same way as other Ministers and if they belong to the Council of Ministers, why should Government, howsoever cautious they may like to be, think that the view that they have taken of the position of the Ministers of State is not beyond challenge?

The same question arises with regard to the Deputy Ministers. I do not want to repeat with regard to them what I have already said about the Ministers of State.

This Bill relates not merely to Ministers of State and Deputy Ministers but also the Parliamentary Secretaries and Parliamentary Under-Secretaries. The view taken in England is, and has always been I think, with regard at any rate to the old Under-Secretaryships, that their holders need not vacate their seats in Parliament and seek re-election. I do not lay stress on that point. It is not clear to me from May's Parliamentary Practice whether there is any law which specifically exempts Members of Parliament from seeking re-election on being appointed as Parliamentary Secretaries or Parliamentary Under-Secretaries. But, the Constitutions of some of the Dominions, I think, may well be referred to more properly on this occasion. So far as Australia is concerned, I believe there is only a Council of Ministers there. It is laid down in the Constitution that Members of Parliament on being appointed Ministers of State,—this is the phraseology used in the Constitution,—shall not be required to seek re-election. There is, however, nothing said in the Constitution about Parliamentary Secretaries and Parliamentary Under Secretaries. Yet, I believe, though I am not certain, that there are such office holders in Australia. How is it that these office holders are allowed to sit in Parliament and their position has never been challenged? I believe that the Constitution of the Dominion of Canada also raises a similar question. My object in drawing the attention of the hon. Minister for Law to this matter is to ask him why it need be thought that Parliamentary Secretaries and Parliamentary Under Secretaries will have to vacate their seats in Parliament unless express provision is made enabling them to hold their offices without vacating their seats and seeking re-election, when, from what one can gather, such office holders can function in Australia and Canada although there is nothing in the Constitutions of those countries referring to them. I hope I have made my position clear.

I understand the Prime Minister's point. He says that although this Bill may be unnecessary in the opinion of the House, yet nothing will be lost if it is allowed to be passed. We may on this occasion agree to accept the Prime Minister's advice. But, what I am anxious to know is why the Ministry of Law, which I suppose advises the Government on legal matters, should have taken the view that it was necessary to bring forward this measure.

Just one word more with regard to the position of those Members of Parliament who may be appointed Members of Committees and Commissions brought into existence by the Government of India and of Missions sent abroad by them. The hon. Minister for Law said that he would look into the matter and if the House so desired, would bring forward a small Bill clarifying the position with regard to the persons who were not permanent holders of offices. This is what I understood him to say; but I confess that I could not hear him clearly on this subject. I fully realise the importance of not allowing the Government to fill the House with persons who in the old terminology would be called 'Placemen'. It is certainly necessary that we should not allow the Government to exercise their patronage in such a way as to undermine the independence of Members of this House. But, the Members who accept a seat on a temporary Committee or Commission appointed by the Government of India are in a different position. If the Government of India appoints a permanent Commission like the Planning Commission and any Member accepted a seat on such a Commission, I personally doubt whether it would be desirable to allow such a Member to continue to occupy his seat in Parliament.

Shri Sondhi (Punjab) : But, the Prime Minister is there on the Commission.

Pandit Kunzru : But, the Prime Minister occupies an office, the holder of which is exempted by the Constitution from seeking re-election on its acceptance. The Prime Minister, therefore, is in a very special position.

Pandit Thakur Das Bhargava (Punjab) : Not only re-election, but continuance as a Member.

Pandit Kunzru : He continues as a Member of this House even after accepting the Prime Ministership. His membership of the Planning Commission will not enable him to draw more emoluments than he is doing now. Apart from this, the position of the Prime Minister is a peculiar one. He cannot merely by accepting something within his gift be supposed to have placed himself under the control of his own Government.

To bring my remarks to a close, I hope that my hon. friend the Minister for Law will bring forward soon a measure that would enable such members of this House as have accepted positions on temporary committees appointed by the Government of India to retain their seats. I think this is a matter of some importance, and if we pass the Bill before the House, the Government should not think that the other matter to which several hon. Members have drawn their attention, can wait not for a short while, but indefinitely for its solution.

Shri T. T. Krishnamachari : The hon. Prime Minister, in seeking to clarify the position in regard to the Bill before us, has stated that this Bill has been introduced by way of abundant caution against some contingency that might possibly come into being which will jeopardise the position of Ministers of State and Deputy Ministers.

I have got great respect for anything that the hon. Prime Minister says and for that matter, anything that the Government brings forward, but since it is a matter where the Constitution is concerned and an interpretation of the Constitution cannot be made in such a loose manner as to bring any measures which, if they are necessary, well and good, they serve the purpose and if they are not necessary, they do not do any harm. After having spent about three years in Constitution making such of those who have been associated with that venture cannot easily treat the Constitution as being something which can be merely taken as a matter of course. My hon. friend Pandit Kunzru asked: "What is the genesis of this doubt?" Surely, I think the hon. Prime Minister amidst his innumerable preoccupations could not have given thought to this particular matter. It must have generated from somewhere; probably some Assistant in the Law Ministry or perhaps an Assistant Secretary or perhaps somebody far more senior to him. I would like to have enlightenment on this matter from my hon. friend, Dr. Ambedkar notwithstanding the fact that I am aware how tired he must be after having spent the whole of last night worrying about this particular measure before this House, for I think, there is a tendency on the part of certain ministerial officers in Government to think that they can snap their fingers at the Constitution. It may be that they can do so in certain matters. We had a Bill before us the other day in which the letter of the Constitution was observed, but not the spirit of it, merely because somebody, either the law officers or the legal advisers to the Government were not able to precisely define what category of cases fell under a particular section of that particular Bill which has now become an Act.

My own feeling is that such of us, at any rate, in this House who have had anything to do with the framing of the Constitution will be perfectly entitled to protest against any such cavalier treatment of the Constitution. With all respect to the hon. Prime Minister, I must say that the Government have or at any rate that limb of Government that is responsible for this Bill have not taken adequate precaution to see whether this Bill is necessary or not. I am not so much worried about the legal issues, whether the Minister of State continues to be Minister or whether because there has been a gap of time between the time when the Government of India Act expired and the new Constitution was promulgated they ceased to be Members of

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Parliament because they held office. In fact to my mind it is perfectly clear that section 394 is the only article that brings this Constitution into being, and not any promulgation by any officer that has been created under this Constitution. The Constitution automatically came into being the moment that the 26th January dawned.

Shri Kamath : Midnight.

Shri T. T. Krishnamachari : Whether it is midnight or six o'clock, in the morning it is a matter which hon. Members must decide for themselves. If a particular person is fond of midnight, well he can say the 26th January began from midnight. If another person (*Interruption*). I am not yielding.

Shri Kamath : Does he know what the calendar means ?

Shri T. T. Krishnamachari : My hon. friend, Mr. Kamath is omniscient. I am afraid I can never rise to his intellectual heights. I must, therefore, remain a humble common man who does not understand the nuances of these peculiar things which he can see probably through his astral body or mind, whatever it might be. But here we are not speaking of inter-planetary travel. We are speaking here of very mundane things.

Shri Kamath : Has he got any mental body at all ?

Shri T. T. Krishnamachari : I am sorry for the digression. My feeling is we have to see whether this Bill is necessary or not and the House has to judge from that point of view, though I quite concede the House should not be asked to decide any constitutional point. May I ask if my hon. friend the Law Member would enlighten us whether when he was appointed a Minister of this Government, he got an appointment order from the Governor-General who was then the presiding deity? Was he appointed as a Member of the Council of Ministers. I remember, he was. Well, I do not see how it could prevent the present President from appointing anybody to be a Member of the Council of Ministers and not give him either a portfolio or tell him that he cannot be in the Cabinet or tell him he has to be a supernumerary Minister or he has got to be an assistant to some other Minister. The whole idea of this Council of Ministers, as my hon. friend Pandit Kunzru had very laboriously tried to make us understand is a conception which has arisen out of the idea of an Executive Council. The colonial administrations had an Executive Council and the word "Council" stuck. The word "Council" figures in section 9 of the Government of India Act and also in section 26(4) which in the adapted Act found no place. In fact under section 9 of the Government of India Act the number of Ministers was limited to ten. One would understand, therefore that the words "Council of Ministers" were rather used loosely and in using those particular words in article 74 of this Constitution, I must ask my hon. friend Dr. Ambedkar, who is the framers of this Constitution if he was not then aware of the fact that there were Ministers of State, there were Deputy Ministers in existence. In fact, I think they came into being sometime in September 1948. and my hon. friend Dr. Ambedkar and other people like myself were concentrating on the pushing through of this Constitution from November 1948 onwards.

Shri Gautam (Uttar Pradesh) : Why did you not help him ?

Shri T. T. Krishnamachari : The question will be answered if my hon. friend will hold his soul in patience.

If we had the remotest doubt that the Ministers of State and the Deputy Ministers would not be included in the category mentioned in article 74 and consequently come within the scope of the saving clause in article 103, surely we would have made a provision for this in the transitory provisions as we have made for all contingencies that might occur. We have made provision in article 381 in regard to the continuation in office of these Ministers. Continuation of Ministers does not mean the continuation of the Cabinet Ministers but continuation of the entire ministerial apparatus, those Ministers who are responsible to Parliament, who are elected Members of Parliament. They are all sought

to be provided for in article 381. Surely either all of us including my hon. friend, Dr. Ambedkar must have been completely dense or that we had then felt that the words "Council of Ministers" were sufficiently expressive to denote not merely Cabinet Ministers but Ministers of State and Deputy Ministers whose status is merely a matter of nomenclature, who might occupy a position of importance whether they are Ministers of State or Deputy Ministers and do the function of Cabinet Ministers though they cannot attend the Cabinet meetings.

I am perfectly clear in my mind that we felt at that time that no provision has to be made for those people. In fact, pointed reference was made by means of amendments; I think my hon. friend Prof. K. T. Shah and perhaps also Mr. Sidhva, to finding a place in the Constitution for Parliamentary Secretaries and so on. But it was then felt they were merely political appointments and they should not find mention in the Constitution, at any rate.

Now, if that was our original idea, then who started this doubt? Who is that legal luminary, I would like to know that has put these doubts in the minds of Members of the Cabinet?

Prof. Ranga : It is not a Cabinet secret.

Shri T. T. Krishnamachari : It is not a Cabinet secret. What happens in a Ministry is not a Cabinet secret. (*Interruption*). Hon. Members will please allow me to proceed. I should like to finish in a few minutes.

Therefore, it seems to me that Ministers of State and Deputy Ministers if they were appointed by the Governor-General in the past as Members of the Council of Ministers would automatically continue by reason of article 381.

Have they received appointment orders originally? Somebody told me that they have not. They have been, more or less, summoned to take the oath of office. They have not been given any appointment order as such. They have been probably invited by the Prime Minister by means of a letter. They have not been given any order appointing them as Members of the Council of Ministers. That might be a lacuna which might have escaped the notice of the Government. But all that needs to be done to-day is this. The position can be rectified by the President appointing these hon. gentlemen as Members of the Council of Ministers. I do not think anything more is needed than that particular act on the part of the President. There is no need for this present Bill which even in the mind of its sponsor apparently is only a matter of abundant caution. I think, in a matter like this it is not worthwhile taking this abundant caution which at the same time indicates at any rate that there is some constitutional difficulty somewhere and you take special safeguards against it, whatever may be the ultimate legal opinion on the position. I do not think that is necessary. After all the position of Ministers is such that they do not act themselves. No order is issued in their name. It is all done by Secretaries. They have actually no status of the nature that I know of that would suffer merely because they have actually caused a particular thing to be done without the title necessary for it. No difficulty can arise either by somebody taking this matter to the Supreme Court, and it is very doubtful if the Supreme Court could possibly take any other view, other than that whosoever is appointed by the President as Member of the Council of Ministers is a Minister, and it does not matter whether he is in the Cabinet or not. Dr. Ambedkar mentioned that in the definitions article we have not defined either the word "Minister" or the words "Council of Ministers" or the word "Cabinet". Really, this word "Cabinet" has received statutory recognition in the U.K. only recently. For centuries Cabinets have existed and they have existed from 1705 in England. But it found no statutory recognition until very recently when mention had to be made in regard to the payment of salaries to the Cabinet Ministers. We have followed that very distinguished example and we have not put in the word "Cabinet" anywhere in the Constitution. Therefore, the Council of Ministers cannot be said to be a sort of co-extensive or co-terminous as my hon. friend Mr. Kamath would like to put it with the word "Cabinet". It must certainly mean something bigger than that. And it does not matter what you call them, Ministers, or Deputy Ministers because it really implies nothing. In England again,

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there are people called Secretaries of State, and Ministers of State, and often times the Minister of State is a person without any particular portfolio. Here we may use it for a different purpose altogether. In the form in which it is mentioned in article 74, it merely indicates that it is a body which is given corporate existence by being called "Council", not that they should have a council chamber and that they should meet as councillors. Originally the words used in respect of colonial administrations were "Executive Council" and its origin is to be traced to the Privy Council of U.K. Even to-day in U.K. the Ministers, before they vacate office hand over the seals of office to the Privy Council as whether they are Cabinet Ministers or not, they have seals of office and the incoming Ministers get their seals from the Privy Council. The Council therefore, in that context means the Privy Council and here in India it may mean all those who occupy an analogous position, i.e., they are Ministers of Government whether they are Members of Cabinet or not. These are conventions which have really no roots so far as the Constitution is concerned and they can be changed at will. Therefore, I think Dr. Ambedkar and the Government would be on very firm ground by dropping this Bill and if there is any lacuna, then all that is needed is for the President to appoint the hon. Members who are Ministers of State and Deputy Ministers as Members of the Council of Ministers—that they should be so appointed as Members of the Council of Ministers by the President of India and I do not think there will be any serious lacuna thereafter.

With regard to other matters that were raised, I have been trying to trace the connected literature without spending much midnight oil and I came across the report of the Select Committee of the House of Commons on Offices or Places of Profit under the Crown, in 1940-41. Hon. Members have quoted very largely from May's Parliamentary Practice and I may say that what they find in that book is more or less *in extenso* copied from this particular report. I would suggest that instead of discussing either between Members of Government or between the various Ministries which categories of persons should be protected against the operation of article 103, it would be much better if Dr. Ambedkar appoints a small committee to go into the whole matter and hon. Members like Mr. Sidhya and Pandit Kunzru and Mr. Kamath and Mr. Tyagi can offer evidence before that committee and guide that Committee in framing their report, and also help them. I think that would be the best way of proceeding with the other aspect of the matter that was discussed by the House.

So far as the main Bill is concerned, I very respectfully suggest to the hon. Law Minister that it might be dropped; nothing would be lost if that is done.

Mr. Deputy-Speaker : Dr. Ambedkar.

An Hon. Member : Can none else speak, Sir ?

Mr. Deputy-Speaker : There are some amendments and when taking them, I will come to the hon. Members.

Dr. Ambedkar : I find that Members have really travelled ground which is far away from the main proposition embodied in this Bill. I have been asked to explain how this doubt arose. In whose mind did it arise first ? I have been asked to explain how is it that in no other country such as Australia or Canada is any such legislation found necessary ?

Well, with regard to the first point, I have no hesitation in saying that I myself felt doubts. I admit that, because notwithstanding many allegations that have been made, I was to some extent responsible for the framing of the Constitution. I have no hesitation in saying that I do not know of any Constitution in the world which can be said to be proof against doubt or against any kind of wrong understanding. Otherwise, if every Constitution was proof against doubt there would not have been these voluminous decisions of the various Supreme Courts in the different countries. Therefore, if I felt even as Chairman of the Drafting Committee that there was doubt in this matter, I am not ashamed to acknowledge it and there is nothing valierly in my behaviour when I say there is some doubt in this matter.

I shall explain why I felt there was doubt. My friend, Mr. Krishnamachari said that the phrase 'Council of Ministers' was taken really from the Government of India Act, 1935 where the language used was 'Council of Ministers' and that language was evidently borrowed by the draftsmen of the 1935 Act from the older Act where the words were 'Executive Council'. Now, I felt that if anybody was to interpret the phrase 'Council of Ministers' he would, no doubt, be justified in taking into consideration the circumstances in which that phrase 'Executive Council', was used, and would be justified in interpreting the intentions of the phrase 'Council of Ministers' by reference to the 'Executive Council'. Now, it is quite obvious that the 'Executive Council' meant only Members of the Executive Council of the rank of Ministers, because at that time there did not exist any such category of people as we call now by the names Deputy Minister or Minister of State or Parliamentary Secretary or Parliamentary Under Secretary. These are offices which have been created long after the Government of India Act, 1935 in its original form ceased to be in existence. I, therefore, felt that probably as we had especially not defined the word 'Minister' or 'Council of Ministers' in the article dealing with definitions, it would be open to anybody to suggest that the 'Council of Ministers' was a phrase used on the same analogy as the 'Executive Council' and therefore it would be open for anybody to say that these officers were not intended to be included.

That is the basis of the doubt which I felt, and I do not see any reason why Parliament should not be called upon to pass a law to place the matter beyond doubt. I do not think, therefore, that there is any unwarranted attempt on the part of the Government to force upon the Parliament a Bill the object of which is to remove doubt. I can point out many cases where Parliaments have passed Acts for the purpose of removing a doubt, and I do not think I am asking Parliament to enter upon any very extraordinary activity in doing the same with regard to this Bill.

With regard to the point raised by my friend, Pandit Kunzru, as to how the Governments in Canada or Australia or other Dominions are carrying on their affairs without any such legislation as is proposed now, I really want to know from him whether he thinks that the Constitution of Australia or Canada does not contain any such provision as is embodied in Article 102, laying down disqualifications on the ground of holding an office of profit. I have had time only to refer to the Australian Constitution and there is a definite section there that a person holding an office of profit under the Crown shall not be qualified for being a Member of Parliament.

Pandit Kunzru : That is right.

Dr. Ambedkar : I do not know whether he had had the time to examine any law made by the Australian Parliament to overcome any difficulties which undoubtedly must arise by reason of that particular section in the Australian Constitution. I have not had the time to examine it, but I just cannot understand how, if the Australian Parliament does permit its Members to hold offices of profit and at the same time sit in Parliament and be Members, they could have done so without some kind of legislation. As I said, I have not had the time to study this, but *prima facie* it seems to me one of the most impossible propositions that the Australian Parliament should be permitting its Members to sit in the Parliament, vote and take part in the proceedings and at the same time hold offices of profit, without a law such as the one proposed here, but I cannot say.

Now, I come to another point and it is this. My friend, Mr. Kamath, among the various points that he was seeking to make which on account of my limited intelligence I could not unfortunately follow, made one point which, I think, I could follow and which, I think, requires some kind of explanation. He has said that the draft of the Bill brings in also a member of the Government of any State, and his contention was that the draft was clumsy. I think that if he had read the clause carefully and also referred to clause 1 of Article 102, would have seen that the language is not only necessary but perfectly justified. My friend will realise that clause 2 of the Bill deals with two cases, one for being chosen as

[Dr. Ambedkar]

a Member, and one for being a Member, that is to say, continuing to be a Member. Now it is proposed that not only a person holding an office of profit under the Government of India should not be disqualified from standing as a Member of Parliament, but similarly a Minister of State or Deputy Minister or Parliamentary Secretary or Parliamentary Under-Secretary who is holding that office in a State, he also, if he wishes to stand in the general election for membership of Parliament, should not be disqualified by reason of the fact that he holds that office in the State. That is the reason why holding an office of profit in a State has also to be brought in because the object of the Bill is to free both categories of people,—Ministers of State or Deputy Ministers or Parliamentary Secretaries or Parliamentary Under-Secretaries, whether they are in the Centre or whether they are in a State,—from this embargo. That is the reason why the words “under the Government of India or the Government of any State” have been brought in.

Shri Kamath : What about the point I raised ?

Dr. Ambedkar : I am coming to that.

The question may arise that if you permit the holder of an office mentioned in clause 2, in a State, to stand for election for Parliament, then he would also be entitled to continue to be a Member of Parliament after he is elected, because the words are “for being chosen, and for being”. My friend will see that that difficulty will absolutely disappear automatically by a constitutional provision contained in Article 101, because as soon as a Minister of State or a Deputy Minister or a Parliamentary Secretary or a Parliamentary Under-Secretary from a State is elected to Parliament, he will have to make his choice whether he would continue to be a Member of Parliament or whether he would continue to be a Member of the State Legislature. Consequently, although the provision is worded in this manner, it certainly would not create any kind of difficulty which he perhaps has in mind.

Shri Kamath : Under the Constitution, is it possible for the States or even for the Centre to have Ministers of State or Deputy Ministers who are not members of the Legislature concerned ? A Minister could be a Minister without being a Member of the Legislature, but so far as I can interpret the Constitution, a Minister of State or a Deputy Minister cannot hold that office without at the same time being a Member of the Legislature.

Dr. Ambedkar : For six months he can. So far as that drafting aspect is concerned, I think I have made the matter quite clear.

My friend, Mr. Krishnamachari, has been twitting me on the point which I made that I have spent a great deal of time in studying this matter last night. I am sure about it that my labours would have been considerably shortened if the paper to which he referred just now, *viz.*, the Parliamentary paper, had been available to me. As I said, when I went, the Library was closed. I think that either the Library was closed or my friend ran away with the paper and did not allow me an opportunity of studying the paper.

With regard to the comment made by my friend, Mr. Kamath, that I slipped when I said that some portion of the Bill, *viz.*, relating to Parliamentary Secretary and so on was a new thing and not contained in the original Ordinance, I do not think there is any ground for him to complain or any necessity for me to apologise. I quite agree that if a Member makes a slip, states wrong facts and these facts have the result of either misdirecting the House or misguiding it, there would undoubtedly be ground for doing so, but it was just a slip. Everybody knows that and I do not think therefore that that was something which required complaint or comment. I can say that I have a less perfect memory than my friend, Mr. Kamath, has. I do not think that there is any point that has been left out by me without being answered.

Pandit Kunsru : Will the hon. Minister tell us whether the Ministers of State belong to the Council of Ministers or not and whether they are appointed by the President.

Dr. Ambedkar : My hon. friend asked me that question before. He knows very well, I think, that the position inside the Ministry is never regulated by law. It is always regulated by convention. It is the privilege of the Prime Minister to select any person to be a member of the Cabinet, although he may not be specifically designated as a Minister. It would be perfectly open to him to say "In my cabinet I will include only certain Ministers. I will not include other Ministers but I would also include a Secretary of State or a Minister of State". The internal arrangement of the Cabinet has always been, as the hon. Member knows, a matter of convention. If he wants I can state the position as it exists now but he must understand that that is only for the time being. The present Prime Minister may alter the method of working of the Cabinet or if a successor comes he may also adopt a different arrangement. There is therefore no use

Pandit Kunzru : May I interrupt my hon. friend? Does he take the phrase "Council of Ministers" to be synonymous with the Cabinet?

Dr. Ambedkar : I do not. As I said in my opening speech this morning this is a phrase which is capable of double interpretation. I have seen observations by writers on Constitutional Law, where they have stated that even Parliamentary Secretaries or Parliamentary Under-Secretaries are included in the term Minister. There are also other writers who maintain that 'Minister' is a narrower term. Therefore, as I said, it is very difficult to satisfy anybody or give a correct answer. This is a fluid situation and must remain fluid; that is the important part. There is no use pinning me down to give my hon. friend a clear picture of how the Ministers and the Parliamentary Secretaries, all of them stand together *vis-a-vis* each other.

Pandit Kunzru : I am sorry I have failed to make myself understood. I am not criticising my hon. friend. All that I am seeking to know is this. If the Council of Ministers does not mean the same thing as a Cabinet, then obviously it can be a wider body than the Cabinet.....

Dr. Ambedkar : Yes.

Pandit Kunzru : ...and the Ministers of State and the Deputy Ministers can belong to it. No question therefore, arises with regard to their position.

Dr. Ambedkar : I need not dilate upon this. The hon. Prime Minister in a most authoritative statement said that in his opinion the Council of Ministers included everybody.

Shri T. Husain (Bihar) : I want to ask one question. It is clear under the Constitution that a Minister can be a Minister for six months without being a Member of Parliament. That is mentioned in the Constitution itself. There is no such mention about the Minister of State or the Deputy Minister, or the Parliamentary Secretary or the Parliamentary Under-Secretary. The hon. the Law Minister told us just now that according to his reading of the Bill a Minister of State, a Deputy Minister, Parliamentary Secretary or Parliamentary under-Secretary can hold office for six months without being a Member of Parliament. I have read the Bill again and I do not understand how the hon. Minister came to this conclusion. Would he explain?

Mr. Deputy-Speaker : It is not absolutely germane to this Bill. The hon. Member may look into the matter at leisure.

Dr. Deshmukh : Sir, one point may be made clear, which is on a matter of fact, *viz.*, whether Deputy Ministers are appointed by the President. This is a matter of concrete fact and probably the hon. Minister may be able to reply.

Mr. Deputy-Speaker : How is it necessary in this connection?

Dr. Ambedkar : Surely they are appointed by the President: who else can appoint?

Mr. Deputy-Speaker : The question is :

“That the Bill to make provision in regard to certain offices of profit under article 102 of the Constitution, be taken into consideration.”

The motion was adopted.

Dr. Deshmukh : After all the discussion that we have had, it is difficult for many of us to understand what the exact position is, because there were so many doubts raised and answered and criticisms still continue to be advanced. On this clause at this stage, at any rate, I do not wish to raise any objections either of law or of drafting. But since we are adding so many categories which did not exist previously, I thought it would be as well to include a category called the “Parliamentary Private Secretary”. The reason why I felt the necessity for adding this category was that in a country like ours, where we have started our new freedom, with a set of highly revered leaders as Ministers of the Cabinet, it would be very desirable to associate younger persons with the work they do, so that in time to come they may be able not only to perform other functions as parliamentarians but also to take the weight off the shoulders of the senior Ministers. It is said that the terms ‘Parliamentary Secretary’ or ‘Parliamentary Under-Secretary’ are sufficiently clear and appointments to these offices will probably fulfil the purpose I have in view. I beg to differ from this contention, because I feel that the Parliamentary Secretary as we have in the States or as we are likely to have them even at the Centre would not be the proper person to perform the functions that are visualised for a Parliamentary Private Secretary. It is from that point of view that I have suggested the inclusion of this particular phrase.

Nor do I contemplate that as soon as the provision is made the office-bearer must be appointed. In fact the hon. the Mover of the Bill observed that there may not be certain categories of these officers or persons appointed at the present moment but there may be necessity hereafter for such appointments and therefore he wanted to provide for any contingency that may arise in future. My suggestion is of a similar nature. If the hon. Minister of Law would be pleased to accept my amendment I would then move it and if he says that he is not prepared to accept it, then of course I would not move my amendment.

Dr. Ambedkar. Sir, I cannot accept it.

Shri Kamath : I beg to move :

“That in clause 2, the following be added at the end :
‘or an office which is not a whole time office remunerated either by salary or fees.’”

Mr. Deputy-Speaker : How does it happen that the hon. Member wants to move his amendment now. I wanted to know if anybody desired to move amendments and nobody stood up. Before I am about to put the question it is open to any Member to speak generally on the clause. It is not open now to the hon. Member to move his amendment. As hon. Members know there are two stages in the procedure. I call out the clause and I look round to see if any hon. Member wants to move his amendment. Thereafter a general discussion on the clause might follow or the clause itself might be put to the vote of the House. Dr. Desmukh stood up to speak generally on the clause.

I allowed him an opportunity generally to speak on this clause. It was a general discussion as to whether it ought to be accepted or rejected. But the stage for moving amendments is past.

Shri Kamath : Under the Rules framed by the Speaker, is it not open to a Member to move an amendment at any time before the clause is put to the vote ?

Mr. Deputy-Speaker : There is a stage for that. I called out whether any amendment would be moved and nobody stood up except one member who said it was only a verbal one and then dropped it. Thereupon I wanted to put the clause as

a whole to the House. Therefore, at that stage it was open to hon. Members to make any general observations on that clause, but that was not done.
4 P. M. I am not allowing this amendment at this stage.

Shri Kamath : On technical grounds I may not be permitted, but I submit the Rules do permit me to move.

Mr. Deputy-Speaker : I am following the Rules. The stage at which the amendment could be moved is over. I was putting the clause to vote and if the hon. Member has nothing to say.....

Shri Kamath : May I request you to point out the Rule ? Under which Rule have you barred me from moving the amendment ?

Mr. Deputy-Speaker : That is the practice here. After the motion for consideration is passed, clause after clause is taken. Clause 2 is taken first, then the succeeding clauses, then clause 1 and then the Long Title and the Enacting Formula. That is the practice. When no amendments have been moved then begins the general discussion on the clause as a whole as to whether it should be accepted or rejected. At this stage, Dr. Deshmukh started speaking. He being the only speaker on the general issue, I must now put the clause to vote.

Shri Kamath : I have the Rules here with me. Will you kindly point out.....

Mr. Deputy-Speaker : I have heard sufficiently. The question is.....

Shri Ethirajulu Naidu (Mysore) : Sir, I want to speak on the general discussion.

Mr. Deputy-Speaker : He has lost the opportunity now. The question is :

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

Shri Tyagi : I beg to move :

"That in the heading of clause 1, after the words 'Short title', the words 'and commencement' be inserted."

It is a very simple amendment and I hope the Doctor will accept it.

Dr. Ambedkar : Perhaps what my friend Mr. Tyagi has noted is that there is no clause stating the commencement. Generally a Bill has a clause saying that the Bill comes into operation from such and such a date. This clause does not exist here, and he thinks there is a lacuna which ought to be filled. But may I submit that under the General Clauses Act, where a Bill does not contain such a clause it is presumed that it comes into operation immediately after the signature of the President.

Mr. Deputy-Speaker : He wants to push the date to 26th January, 1950.

Dr. Ambedkar : It is unnecessary so long as the Ordinance is there.

Shri Tyagi : After that there is a second amendment, and if the hon. Minister agrees I shall add the words to indicate the time also.

I beg to move:

"That for clause 1, the following be substituted :

1. This Act may be called the Prevention of Disqualification (Parliament) Act, 1950, and it shall come into force from the 26th January, 1950."

Mr. Deputy-Speaker : We are on the Long Title and the Enacting Formula. Clause 1 is over, but even then the hon. Member has not lost much.....

Shri Tyagi : My difficulty was that you, Sir, were all along on your legs and I could not rise.

Mr. Deputy-Speaker : The hon. Member, I have witnessed, has been able to ask even the Speaker to sit down. What of me? I would have sat down earlier if he wanted to speak. His voice is sufficiently loud and he could easily have caught my ear if not the eye.

Anyway, here there is no matter of substance. The hon. Minister has explained that so far as the date 26th January is concerned, it is unnecessary for the reason that there has been in existence an Ordinance. Therefore, this is only a duplication. So far as the addition of the word "commencement" in the Title is concerned, there also it is not necessary because there has been an Ordinance. Then, as regards the second amendment, he wants to put the word "Disqualification" first and "Parliament" next. It does not matter what the order is so long as the words are there in one form or another.

Shri Tyagi : Sir, I will say just a few words.

Mr. Deputy-Speaker : I will give him an opportunity to speak at the third reading.

Shri Tyagi : I will not make a speech now.

Mr. Deputy-Speaker : But I cannot allow the amendment to be moved.

Shri Tyagi : I have already moved it.

Mr. Deputy-Speaker : But the clause has already been passed. I will put the Long Title and Enacting Formula to vote. The question is :

"That the Title and the Enacting Formula stand part of the Bill."

The motion was adopted.

The Title and the Enacting Formula were added to the Bill.

Dr. Ambedkar : I beg to move:

"That the Bill be passed."

Mr. Deputy-Speaker : Motion moved :

"That the Bill be passed."

Shri Ethirajulu Naidu : I want to use this opportunity to refer to some of the observations made by my friend, Shri Krishnamachari. He said that those of us who had something to do with the drafting of this Constitution cannot tolerate its being cavilled at or treated with indifference. May I tell him that some of us new Members who have come here to this Parliament after the Constitution has been made, have got equal respect for the Constitution. We have taken the oath. It is not only a question of Members having a respect for the Constitution or the authors of it. Every citizen of this Republican State has regard and the greatest respect for the Constitution, and I think in saying so I am voicing the feelings of all the new Members that have come in after the Constitution was framed:

Coming to this measure, I wanted an opportunity to speak before it was passed but I lost that opportunity.

Shri Kamath : It is not yet passed.

Shri Ethirajulu Naidu : I mean before the present motion was moved.

I am not against the Bill but I just wanted to advance some reasons in favour of it and it is as well that I do it now. It is not a question of a legislation being passed which is absolutely unnecessary and which is recognised as such on all hands. When there is a moot point or some reason for ambiguity in the minds of some persons at least, it is as well that the doubt or ambiguity is resolved and matters are set beyond any kind of controversy. If I am not mistaken, in the Mysore Legislative Council Act and the Rules framed thereunder, an office of profit is defined under the Rules on the same lines as suggested by my friend, Mr. Kamath, that is, that it must carry a salary or fees and must be a whole-time employment.

Difficulties would not arise if either in the Act or under the rules the words "office of profit" are defined. In the absence of that definition, the power conferred under Article 102 of the Constitution should be made use of by the Parliament to define or enumerate those offices, and I support this Bill because it removes any kind of doubt that may be entertained in regard to this matter.

Shri J. R. Kapoor (Uttar Pradesh) : I think the House has got practically tired of the long discussion on this Bill. I hope what I am going to submit will not be boring. The more we have debated this Bill, the greater has been the confusion that has been created.

Shri Kamath : Who is responsible for it ?

Shri J. R. Kapoor : Confusion has been made worse confounded by the speeches, if I may say so, firstly of the hon. the Law Minister and secondly of the hon. the Prime Minister.

Confusion was first created by the statement of the hon. the Law Minister that he was not himself sure, in his mind, as to whether there was any need or not for this Bill. It appears that his view originally definitely was that every Minister of State and every Deputy Minister was a Member of the Council of Ministers and therefore, he was occupying as good a position as a full-fledged Minister did, and therefore it was unnecessary to introduce any Bill like the present one. But then, somehow or other, a doubt was created in his mind and also in the mind of the hon. the Prime Minister that, perhaps, they might not be right. So they have brought forward this Bill. When the hon. the Prime Minister stated that even now he had no doubt in his own mind that every Minister of State and every Deputy Minister is a member of the Council of Ministers, I think he made a statement which, perhaps, he may not be happy, later, to have made. For after all, what are the implications of the position he has taken ? Under Article 74 of the Constitution, we have it that "there shall be a Council of Ministers with the Prime Minister at the head", and what would be their functions?—"to aid and advise the President in the exercise of his functions". Now, if every Minister of State and every Deputy Minister is, in fact, a Member of the Council of Ministers, then, I suppose it is necessary that both of them must always be called to meetings of the Cabinet, or meetings of the "Council"—for, we have no such word here as "Cabinet"; it is "Council". They must always be called to meetings of the Council, so that any decision that may be arrived at there, and which decision must be conveyed to the President in the form of advice, may be a decision taken in consultation with them. The Council of Ministers must advise the President in its composite capacity ; it cannot be that only a part of the Council should advise the President and not the rest of it. I do not know, and I would very much like to know, whether Deputy Ministers are always called to the meetings of the Council when matters are discussed and decided and the decisions arrived at are reported to the President. If that is not the case, then, I submit, they are not being treated as Members of the Council of Ministers. If, in fact, they are Members of the Council of Ministers and yet they are not invited to meetings of the Council, then the decisions of the Council of Ministers are, I am afraid, not valid decisions

Shri T. Husain : Why not ?

Shri J. R. Kapoor : For the simple reason that if one who is a Member of the Council, and is therefore entitled to be present and to participate in the discussions, is not invited to be present, then the decisions arrived at such a meeting are not the decisions of the Council of Ministers as a whole. Therefore, I submit that the position which the hon. the Prime Minister has taken up is one which, I do not know, how long he will be able to continue to take. If the position he has taken is correct, then there was absolutely no necessity for bringing in this Bill; if, however, that position was not correct, then there was certainly a need for this Bill. I have, however, no doubt in my own mind that this Bill is absolutely necessary

[Shri J. R. Kapoor.]

and that the Ministers of State and the Deputy Ministers are not Members of the Council of Ministers. I wish very much that they were. I would be very happy if, hereafter at least, they are treated as full-fledged Ministers and always called to participate in the discussions and debates of the Council of Ministers. I would be very happy indeed, but since it appears to me that that is not the case under the present Constitution, I appreciate the necessity for this Bill.

We heard long and elaborate arguments advanced by hon. Members....

Mr. Deputy-Speaker : The hon. Member must know the scope of the Third Reading. All that he has said and all the arguments that he has put forward have already been said and put forward. Once again, they ought not to be repeated and there ought to be no further discussion on them. What the hon. Member can do is generally to discuss whether this Bill is in the interests of the country or not. Those are the only observations that can be made. No amendment has been accepted—nothing whatever has been done in that direction. Therefore, we ought not to go over the same ground as has already been trodden for a very long time on this Bill. I believe the hon. Member has nothing more to submit.

Shri J. R. Kapoor : No, Sir. What I was submitting was this. I am not against the enactment of this legislation, but I am merely submitting that it is not safe for the hon. the Prime Minister to take the position he has done. That was the general proposition that I am advancing.

Mr. Deputy-Speaker : That is another matter. Let the hon. the Prime Minister do anything. That is not the subject matter of this Bill. The hon. Member is merely referring to the arguments already advanced.

The Minister of State for Parliamentary Affairs (Shri Satya Narayan Sinha): The question be now put.

Shri Buragohain (Assam) : Sir, my only regret is that this Bill does not go as far as the Ordinance it seeks to replace. I refer here to the clause to which my hon. friend Mr. Naidu had referred a minute or two ago regarding statutory exemption in the case of those who are employed only part-time. A clause of that kind appears not only in the Ordinance to which the hon. the Law Minister made reference this morning, but also in the Government of India Act, 1935, itself, *vide* Section 307, which, for the purpose of the first election, made an exception in the case of persons holding an office which is not a whole-time office remunerated either by salary or fees. I should have very much liked a provision of this kind in this Bill.

In the second place, I would like to agree with the hon. the Law Minister in the restricted sense in which he has taken the word 'Minister' which appears in Article 102 of the Constitution.

Certainly the word 'Minister' cannot have a very wide meaning. For instance we have among the diplomatic representatives at least two Ministers—one in Siam and another in Switzerland. If the word 'Ministers' is to be taken to mean a minister in a broad sense, certainly those Ministers will be also excluded from the mischief of article 102. On the other hand, article 102 bars the diplomatic representatives enjoying higher ranks than mere Ministers such as our Ambassadors and High Commissioners. Ambassadors and High Commissioners are no doubt Ministers, but they are not called Ministers. Still they are Ministers of the Government of India. Certainly our Constitution-makers could not have meant to make this invidious distinction in favour of mere Ministers and excluded those others who enjoy higher ranks. So I am inclined to think that the word 'Minister' used in this article must be taken to be and to mean those Ministers who have a constitutional right to advise the President and who are Members of the Cabinet.

Mr. Deputy-Speaker : The question is :

"That the Bill be passed."

The motion was adopted.

BANKING COMPANIES (AMENDMENT) BILL

The Minister of Finance (Dr. Matthai) : May I ask you, Sir, to permit me to move the Bill to amend the Banking Companies Act first, because the Ordinance to which it relates is likely to expire early next week ? So, if I have your permission I would move it first.

Mr. Deputy-Speaker : Yes, it may be done.

Dr. Matthai : I beg to move :

“That the Bill to amend the Banking Companies Act, 1949, as reported by the Select Committee, be taken into consideration.”

There are three important changes which the Select Committee has made in the original Bill. I am glad to say that the report of the Select Committee is unanimous on those three points. Firstly, in the original Bill the majority of shareholders whose approval was required was stated to be a majority in number representing two-thirds of the total paid-up capital of each bank. The Select Committee has changed this into a majority representing two-thirds of the paid-up capital held by shareholders present either in person or by proxy. The change has been made consistently with the object of the Bill which is to expedite the process of amalgamation. If we insist on the approval of a majority of shareholders representing two-thirds of the total share capital of the company, it will take a very long time before the amalgamating companies could secure the necessary support.

The second change is with regard to the claim of dissenting shareholders concerning the value of the shares. The original provision was that the value was to be determined by agreement between the companies and the dissenting shareholders and if this was not found possible, the matter was to be referred to the Reserve Bank.

[PANDIT THAKUR DAS BHARGAVA *in the Chair*]

What the Select Committee has proposed is that, instead of leaving the matter to be determined by negotiation and agreement between the companies and the dissenting shareholders, it should be referred to the Reserve Bank for decision along with the application for sanction of the scheme of amalgamation. A great deal of time in that way would be saved. This is consistent with the main principles of the Bill.

The third change made by the Select Committee is this. The original Bill had no provision for the vesting of the properties and liabilities of the transferor Company except by taking the usual legal steps from time to time. What the Select Committee has proposed is that, on the sanctioning of the scheme, there should be an automatic vesting of the properties and liabilities. This provision would save a great deal of the time and trouble.

These are the three main changes. I may perhaps tell the House that, in view of the situation which has arisen in Calcutta in regard to the amalgamation of certain banks, the early passing of this Bill is very important. In any case, the Ordinance on which this Bill rests will expire on 18th March, 1950. I would, therefore, beg the House to give the earliest possible consideration to this measure.

Mr. Chairman : Motion moved :

“That the Bill to amend the Banking Companies Act, 1949, as reported by the Select Committee, be taken into consideration.”

Shri Goenka (Madras) : Even at the risk of being misunderstood by the hon. the Finance Minister as being too intelligent, I am afraid I have got to express my views in regard to this Bill.

[Shri Goenka]

This Bill, in my opinion, does not touch even the fringe of the trouble in regard to the banking structure in this country. I would have expected the Minister to bring in a comprehensive Bill for what I call the integration of the banking system in this country or for the integration of the banking institutions in this country.

There are in this country about one hundred Scheduled Banks with some three thousand branches in different places. My friend, Seth Govind Das who, comes from Jubbulpore knows that there are 43 branches of the Scheduled Banks in that place. If I do not draw the attention of the hon. Minister to the difficulties experienced by the mercantile community, the industrialists and the producers for want of banking facilities, I would be doing very little justice to the Finance Department. I expect the Finance Department to know what happens in regard to the banking institutions in the country. You cannot have circulation of currency or have confidence in your banking institutions if the hard-earned money of even a single individual is lost in a single bank. Compare your banking institutions with those in the West and you will have to come to the inevitable conclusion that there is something very seriously wrong with the banking institutions in this country.

What deposits have our banks today compared to our currency? What is the deposit which the banks have in the West compared to the currency in circulation there? In England, the deposits in the banks amount to four times the currency of the country and, in the United States, where the banking system is a little different—I am not going into the details of that now—the deposits are three and a half times. But what is the deposit in this country? It is 78 per cent or 79 per cent of the currency in this country. Before the war, the deposit was to the tune of 125 per cent, if I am not greatly mistaken. Now, what is happening to our banking institutions? Why is it that people do not want to put their hard-earned money in them if they have a chance of getting it back?

That has been the real situation in this country. While the Reserve Bank of India has been engaged in what I call 'solacing activities', it has not done anything either to expand the banking facilities or to provide credits for industries. It is easier to have the Reserve Bank of India rate at three per cent but in all seriousness I ask the hon. the Finance Minister, can any industry get any money to-day even at six per cent? I was told yesterday and three days back that in the second half of 1949 the ratio of deposits to advances had fallen down. Of course as usual the Finance Minister made a statement and added another sentence to the statement to keep a loop-hole for him to get out of the situation when it suited him. That was the state of affairs of the whole of his conclusion in regard to the hopes of his Budget and even in this particular case, that was his position. His position was that while the ratio of deposits to the advances has appreciated, still it may be due to the fact that the banks have stopped advancing money owing to various reasons.

If I go into the various facts and figures, which I propose to do this afternoon, I will establish conclusively that the purpose for which the banking institution has been created in this country has failed to carry out its obligation. Who is responsible for this state of affairs I do not know, but the Finance Department cannot deny its share of the responsibility. I will cite only a few examples to prove my basis that while a European firm in this country can borrow money from an institution like the Imperial Bank of India at three per cent or a producing company managed by a European firm can borrow money at three per cent, the moment the same company is transferred to an Indian, the terms change. I will give you hundreds of cases and I can prove it to the satisfaction of the hon. the Finance Minister. This House has been insisting upon the Finance Minister for the nationalization of the Imperial Bank of India. It is within my personal knowledge that when the borrower is a European house, without his personal securities the person managing that company can borrow at three per cent without any margin whatsoever from

the Imperial Bank. He can borrow against a supposed purchase, *viz.*, if you order for purchase, the Imperial Bank will advance you money for the purpose of purchase in some distant part of the country. It will take no deposit from you, no advance from you, no margin from you for the goods pledged with it or supposed to be pledged with it and when the goods are sold and delivered, no money is demanded before it is delivered. That is the way in which the European offices are being treated by the Imperial Bank of India. I am not talking of the Exchange Banks in India. Exchange Banks in India of course are foreign concerns and they are here to finance the foreign companies working in this country.

Shri Sidhva : There are Indian Exchange Banks also.

Shri Goenka : My friend says Indian firms are also doing exchange business but the European Banks which have been doing exchange business in the country are generally known as Exchange Banks while some of the Indian Banks also have been doing exchange business. What do those banks do? Immediately a Letter of Credit is established by a foreign house in favour of a Company, a European client of such English Banks can draw all the money against that Letter of Credit although the goods are nowhere in the scene. With the money drawn against that Letter of Credit, goods are purchased, baled, packed and shipped and then the Bill of Lading is given to the Imperial Bank. This is one side of the picture.

The other side of the picture is that the deposits with our Indian Banks are going down sharply. The advances are going up. In 1948, if I remember aright, we lost about 100 crores of deposits. In 1949 again we lost 103 crores of deposits and what has been the net position? At one time our ratio of deposits to advances was 60 per cent. During the war our ratio of deposits was 130 per cent. Before the war it was 125 per cent. To-day it is 78 per cent.

Now the hon. the Finance Minister laid stress upon production.....

Dr. Matthai : If I may intervene with your permission, Sir, the problems which the hon. member has raised are important and undoubtedly require the consideration of the House but they are not strictly relevant to the very limited purpose of this Bill. Besides the hon. Member has given notice of a cut motion for raising this very issue. So I would request you to ask the hon. Member to limit his discussion to the circumscribed purpose for which this Bill has been introduced. I am making that suggestion, if I may say so, because the passing of this Bill is a very urgent matter in view of the things which are developing in certain parts of India and the Ordinance will expire within a few days.

Shri Gcenka : I may suggest that the Bill before the House is for the amalgamation of the Banking institutions in this country. I say that this amalgamation, though it is necessary, ought to have been integration and I am perfectly within my rights of the Standing Orders and Rules framed thereunder to discuss and prove to the satisfaction of this House that the necessity of the hour was that the Bill ought to have been for the integration of the various Banking Institutions in this country into a group of 18 or 20 and thus stabilise the Banking system in this country. I am developing my point. I have not got the Rules here but if you see the Rules in regard to matters which come before the House from a Select Committee, you will find that you can discuss further expansion of the scope of the recommendations of the Select Committee or suggest an alternative proposal and that is within the scope.

Mr. Chairman : The hon. Member has entirely misunderstood the appeal of the hon. the Finance Minister. He has not raised any point of order. I can see that when the amalgamation is there, the question of integration is open but as the time is very short and subsequently also at the time of the cut motion the question can be raised, the appeal of the hon. the Finance Minister is very pertinent and I would request the hon. Member to accede to the appeal.

Shri Goenka : Well, Sir, I respectfully bow to your wish which, fortunately, is not a ruling in this case. But, my trouble is this. When a question like this arises during the discussion of the Cut Motions, you hardly get fifteen minutes. It all depends upon the wishes.

An Hon. Member : Take the 15 minutes now.

Shri Goenka : My proposition is this. This is a subject which can never be discussed in the life time of this House. This is a subject of a very important character. This is a subject which goes directly to impede production in this country if not carefully attended to. Sir, I have a mind, subject to your approval, to prove with all the facts and figures issued by the Reserve Bank of India from time to time and by the Finance Department of the Government of India that unless and until we integrate these Banks into say 18 or 20, and make them impregnable against all the vagaries of the management and the like, there is no salvation for us so far as the banking system in this country is concerned. If it is your wish, Sir, I will certainly bow down to your ruling and resume my seat.

Mr. Chairman : As I have just explained the question is not one of, I should say, relevancy. The remarks of the hon. Member are quite relevant and I for one would not rule them out. At the same time, I would request him to look to the urgency of the Bill. After all, the Cut Motion is there and he is at perfect liberty to raise the point then.

Shri Goenka : Cut Motions I have given in plenty. If you give Cut Motions, there is only one per cent chance of your Cut Motion seeing the light of day or, in any case, seeing the light of this House and being discussed on the floor of this House.

Mr. Chairman : But, the main point has been made out by the hon. Member.

Shri Goenka : I will bow down to your wish, Sir. Otherwise, I had a mind to take an hour and a half on this subject.

Dr. Deshmukh *rose*—

Mr. Chairman : Does the hon. Member wish to speak on this ?

Dr. Deshmukh (Madhya Pradesh) : Yes, Sir.

Mr. Chairman : He has just heard the appeal of the hon. Finance Minister.

Dr. Deshmukh : I won't take more than five minutes.

Mr. Chairman : Five minutes will be too much ; we have to pass this Bill before we rise.

Dr. Deshmukh : Sir, it will probably surprise many hon. Members of this House how I am interested in a Bill which is concerned with banking, knowing as they do my views that I would favour even nationalisation of all banks. But, the question is, I really feel, although I am absolutely unlike my friend Mr. Goenka either from the point of view of the bank balances that he has or the interest in the trade and commerce of the country that he possesses, that I should take this opportunity to voice the grievances of the merchant classes that the policy of the Reserve Bank, so far as the allowing of credits and other things are concerned, is impeding trade and commerce of this country very severely. I hope the hon. Finance Minister will pay very earnest attention to this fact because it is likely to help and not hinder his efforts to increase production and the financial recovery of our country.

An Hon. Member : The Reserve Bank does not control this.

Dr. Deshmukh : It is quite true that the Reserve Bank, as suggested by my friend, does not actually determine giving credit directly. But the policy of the Reserve Bank in all these things is responsible and does help or hinder the progress and availability of finances to merchants and traders. That is a fact which is absolutely inescapable.

Now, in this Bill, the first few clauses are certainly more or less formal. The more important clause is clause 8 which seeks to lay down the procedure for the amalgamation of Banking companies. As we will see from the very nature of the clause, it is a clause which is intended to restrict if not prevent the amalgamation of Banking companies. Now, fortunately or unfortunately, most things we do have two sides. There are certain results, bad results, which we want to prevent. But at the same time, the things we do and the actions we take have also an adverse effect. I hope that the amendment that has been proposed in this Amending Bill will not have that effect. I would also like to point out that in giving effect to this provision it will be seen that this will not obstruct cases of genuine amalgamation. If we follow the procedure that has been laid down under clause 8, it would be obvious that amalgamation of Banking companies becomes well nigh impossible. The amount of restriction that has been placed in the way of amalgamation is so severe that it will be impossible for any company or any group of companies to obtain the consent which is necessary under this clause. On the one hand we want to see that there is no mischief, there is no cheating of the interests of the shareholders in the amalgamation. On the other hand, it should be the concern both of this House as well as the hon. Finance Minister to see that bank failures are avoided at least by amalgamation in proper cases. We have had several questions and answers on the floor of this House which indicate that Bank after Bank is failing and the number of Bank failures is mounting. We have also to take into account a bit of history so far as this process is concerned. You will remember as a person who has studied all these questions that restriction in the floating of Banking Companies was intended by the British Government during the days of war as a deflationary measure. They wanted to restrict and in many cases prevent the formation of Banking companies for certain reasons. They wanted then to keep strict authority in their hands so that permission for the formation of new companies or for capital issues was not automatically given.

Shri T. T. Krishnamachari (Madras) : Is the hon. Member thinking of control of capital issues or banking ?

Dr. Deshmukh : I know what I am talking about. The question of Capital issues also is quite relevant from this point of view because I want to draw the attention of the hon. Finance Minister to this fact that he should examine the whole policy and especially the point of view with which formation of companies and their existence, their prospects and position were considered and determined by the British Government. Unless we try to examine all those circumstances and lay down a certain definite policy which will be more in the interests of this country, we will not be able to help the country to the extent we want. That was my only purpose in rising to speak. Although this particular Bill is a narrow one, I think it is a step in the direction of restricting as far as possible facilities to the Banking companies in their various transactions. Personally I think there is this other side to it and it should not be kept out of the view by the hon. Finance Minister.

Shri T. T. Krishnamachari : I would like the hon. Minister to tell us something in regard to proposed section 44 A(1) which I see the Select Committee has toned down a bit; the requirements according to clause (1) will be :

“.....and approved by a resolution passed by a majority in number representing two-thirds in value of the shareholders of each of the said companies, present either in person or by proxy at a meeting called for the purpose.”

Personally, I think even this requirement is rather difficult to fulfil normally by companies and I, therefore, would like to know if my hon. friend has any information particularly in relation to what is happening in Calcutta where schemes of amalgamation are now in the process of being put through, where they find that they are in a position to satisfy the requirements of 44 A(1). Or would it be necessary for the Government to issue a further Ordinance whittling down the requirements of this provision a little more. Personally, I think in view of the fact that

[Shri T. T. Krishnamachari]

nothing can be done without the *imprimatur* of the Reserve Bank it would not matter very much if the condition attached to the shareholders' sanction be not as rigorous as it is found in the amended Bill sent to us by the Select Committee. I would like to have the information if my hon. friend can possibly furnish it.

Dr. Matthai : This particular point was considered carefully by the Select Committee because the original proposal which we placed before the Select Committee was a proposal which implied as my hon. friend, Mr. Krishnamachari has suggested certain impediments in the way of amalgamation. Various alternative measures were considered by the Select Committee. In fact there was no point concerning this Bill into which the Select Committee went in greater detail than this and of all the various proposals put forward before the Select Committee they considered that in the circumstances on the whole the most suitable from the point of view of expediting the amalgamation is what is put forward here.

* As regards the situation in Calcutta, I am not in a position to answer that question because I have not yet had an official report as regards the steps which are being taken and the actual problems which are being considered.

As regards Dr. Deshmukh's suggestions, I would certainly keep them in mind and I may perhaps in this connection say that some of these problems regarding the banking structure of the country might come up at a fairly early date for consideration before the House on the report of the Banking Committee which is now functioning under the chairmanship of Sir Purshottamdas. (*Interruption*). It is entirely rural banking. The terms of reference are slightly wider but, at any rate, that would give the House an opportunity of considering certain important aspects of banking organization and structure in this country.

With regard to Mr. Goenka's point, I hope it will be possible for us on the cut motion, of which he has given notice, to apply our minds to the problems he has raised.

Mr. Chairman : The question is :

"That the Bill to amend the Banking Companies Act, 1949, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. Chairman : The question is :

"That clauses 2 to 7 stand part of the Bill."

The motion was adopted.

Clauses 2 to 7 were added to the Bill.

Dr. Matthai : Mr. Chairman, before Mr. Kapoor moves his amendments, I shall like to say that I am prepared to accept them.

Shri J. R. Kapoor : I beg to move :

(i) "That in clause 8, in sub-section (3) of the proposed new section 44A of the Banking Companies Act, 1949, after the words 'as determined by the Reserve Bank' the words 'when sanctioning the scheme' be inserted."

(ii) "That in clause 8, in sub-section (3) of the proposed new section 44A of the Banking Companies Act, 1949, for the words 'the decision of' the words 'such determination by' be substituted."

Mr. Chairman : The question is :

(i) "That in clause 8, in sub-section (3) of the proposed new section 44A of the Banking Companies Act, 1949, after the words 'as determined by the Reserve Bank' the words 'when sanctioning the scheme' be inserted."

(ii) "That in clause 8, in sub-section (3) of the proposed new section 44A of the Banking Companies Act, 1949, for the words 'the decision of' the words 'such determination by' be substituted."

The motion was adopted.

Mr. Chairman : The question is :

"That clause 8, as amended, stand part of the Bill."

The motion was adopted.

Clause 8, as amended, was added to the Bill.

Clauses 9 to 12 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Matthai : I beg to move :

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

Mr. Chairman : The question is :

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

The motion was adopted.

CAPITAL ISSUES (CONTINUANCE OF CONTROL) AMENDMENT BILL

The Minister of Finance (Dr. Matthai) : I beg to move :

"That the Bill to amend the Capital Issues (Continuance of Control) Act, 1947, be taken into consideration."

This Bill has two objects. The first is to extend the Act up to 31st March 1952 and the second to extend it to all territories under the legislative jurisdiction of Parliament. As regards its purposes, as the House is aware the Capital Control Act is intended to prevent the use of investible funds except for purposes of national importance. Its purpose is also to see that a beginning is made and some preliminary measures are taken towards the formulation of a national investment policy. That, of course, is very important in view of the setting up of the Planning Commission. Lastly, it would serve to exercise some scrutiny over foreign investments in India. That is the scope of this Bill.

Mr. Chairman : Motion moved :

"That the Bill to amend the Capital Issues (Continuance of Control) Act, 1947, be taken into consideration."

Shri Goenka (Madras) : I would like to know whether we are going to sit for a longer period. If we are going to sit for another three minutes, then I would like to make my speech tomorrow.

Mr. Chairman : The hon. Member fully knows the circumstances under which we are having this discussion.

Shri Goenka : Pass it now then.

Shri T. T. Krishnamachari (Madras) : I do not want to make a long speech. The circumstances under which this enactment came into being originally, the House fully well knows. I know my hon. friend Dr. Deshmukh was referring to that circumstance in discussing the Banking Bill but in future this measure would be operating for different purposes. I would like, therefore, to get an assurance from the hon. Finance Minister that he will let the House have not merely a statement of policy which will guide the working of this particular measure and also the composition of the Committee that will probably act as the Advisory Committee in the operation of this particular measure. If I could get those two assurances, I think the House might be satisfied to let the matter rest in the safe hands of the hon. Finance Minister.

Dr. Matthai : I have not quite followed my hon. friend.

Shri T. T. Krishnamachari : Firstly, we have not got an idea yet as to what the Government's policy in regard to this matter is going to be in future. In the past it had certain functions to fulfil in the matter of capital control, but in future it might be different. We would like to have a statement of policy from Government on this particular matter and also the composition of the Committee which will act as an Advisory Committee for this purpose. At the moment, I think, it is mainly a departmental Committee; various secretaries or their representatives and a few others sit together and pass or reject applications for capital issue. In the future, we would like the Committee to be slightly enlarged, at any rate, some expert to be on the top. Probably it might be that my hon. friend might think of that Member who advises the Planning Commission in matters of finance and he might be the Chairman or somebody like that and, therefore, if my hon. friend will apply his mind to it sometime, not necessarily during this session, but sometime later and give the House a statement of policy and also the composition of the Committee, I think we would be quite satisfied.

Dr. Matthai : I am prepared to do so.

Shri Kamath (Madhya Pradesh) : Sir, we will be creating a very unhealthy precedent if a Bill of this nature, because of certain circumstances and because of want of time, is rushed through, and if discussion on such a Bill is
5 P. M. curtailed. We are prepared to sit longer if necessary.

Dr. Matthai : May I say in reply to my hon. friend Mr. Kamath that while I quite appreciate the importance of the House giving as much consideration as possible to a Bill of this nature, this Bill has been in operation for quite a considerable period.

Shri Sondhi (Punjab) : That is all the more reason why we should know something as to how it has been working.

Dr. Matthai : I am coming to that. In order to give the House a better insight into the working of this scheme and the policy underlying it, I have already told the House in reply to the point raised by Mr. Krishnamachari that I will have a paper drawn up regarding the policy we wish to follow and the organisation we propose to set up and a brief account of the results of the working of Capital Control, and place it as early as possible before the House so that the House may have an opportunity of considering it. Later on, if it is necessary that the matter should be gone into in some detail, I will see if some time could be allotted either in this session or in the next session.

Dr. Pattabhi (Madras) : Government are aware that at first the limit of permissibility was fixed at Rs. 1 lakh and later on it was raised to Rs. 5 lakhs so that a company might be started without the permission of the Controller of Capital Issues, if the capital is less than Rs. 5 lakhs. And so if at present we agree to have the limit at Rs. 10 lakhs it will perhaps take away a great deal of hardship.

Dr. Matthai : That is obviously one of the matters which have to be considered in formulating the policy we have to follow and I will keep it in mind.

Prof. Ranga (Madras) : So far as the Committee that is being suggested is concerned, I am certainly in favour of it, but I am anxious that industrialists or capitalists ought not to be there lest their own interests should come into play in their judgments or in the kind of advice they give to Government in regard to industrial activities.

Dr. Matthai : The committee would be really a representative body and would not give undue representation to any particular interest.

Shri Kamath : Then, shall we take it as a promise that this House will be given an opportunity to discuss it ?

Dr. Matthai : I will try my best. It is impossible to find time this session. Next session I will make an effort to give the House time for discussing the paper which I propose to place before it.

Mr. Chairman : The question is :

“That the Bill to amend the Capital Issues (Continuance of Control) Act, 1947, be taken into consideration.”

The motion was adopted.

Mr. Chairman : The question is :

“That clauses 2 and 3 stand part of the Bill.”

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Dr. Matthai : I beg to move :

“That the Bill be passed.”

Mr. Chairman : The question is :

“That the Bill be passed”

The motion was adopted.

The House then adjourned till a Quarter to Eleven of the Clock on Saturday, the 11th March, 1950.