

Thursday,
11th December, 1947

THE
CONSTITUENT ASSEMBLY OF INDIA
(LEGISLATIVE) DEBATES

Official Report

Volume III, 1947

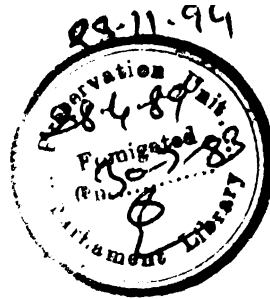
(11th December to 12th December, 1947)

First Session

OF THE

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

1947



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CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

Thursday, 11th December, 1947

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. Speaker (The Honourable Mr. G. V. Mavalankar) in the Chair.

SIGNING OF ATTENDANCE REGISTER BY MEMBERS

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, Before the proceedings begin, I have to bring to your kind notice a new practice which has been set up in the office to-day of requiring Members to sign in the attendance register. This is done in the Provincial legislatures, but it has never been done in the Central legislature here. It is very very troublesome and irksome. There appears to be a kind of suspicion about the Members.....

Mr. Speaker: I will just explain to the Honourable Member. He has been referring to the changed practice now of requiring Honourable Members to sign a register indicating their presence in the House on a particular day. The practice up to now has been that a clerk sits in the lobby. He just watches Members coming and going, and marks them present. That is one part of it. The other part of the practice was that cheques in respect of their travelling and other bills were prepared and distributed to Members and their signatures obtained in the House itself. I believe Honourable Members will agree that, if the register is to be kept more accurately and correctly, in view of the much larger number of Members coming and a large number of Members not being known to the clerk who comes in and goes round about in the lobby enquiring of a person as to whether he is a Member or not, the best course is that the clerk should sit in the lobbies, with a register and every Honourable Member who comes in should sign. That will make the list complete and accurate without the clerk having to move about. There is not so much the idea of saving trouble for the clerk as of having an accurate register. Sometimes doubt arises about a name and there is difficulty in knowing whether the particular Honourable Member was personally present or not. That is one difficulty.

The other inconvenience that I noticed here was, that every now and then I found a chaprasi coming from office for giving cheques to Honourable Members, crossing between the Speaker and the Honourable Member speaking at the time, and creating a little disturbance. Therefore, the best course would be to keep the cheques in the Notice Office and for Honourable Members to get them from there. I can assure Honourable Members that in requiring them to sign the register, there is no idea to have any proof of their presence in their own hands.

An Honourable Member: It is only incidental.

Mr. Speaker: It is not even incidental. I am sure Honourable Members would not claim the right of having their cheques honoured without signing when they are presented to the bank. It is similar to that, and a representation to me was made in this respect by certain Honourable Members. Therefore, I again considered the practice and I thought this would be the best procedure to follow. It is not done by the office *suo motu*. It is the result of representation from some Members of this House and of consideration given to it by me.

An Honourable Member: What is the objection to maintaining this attendance register?

DEATH OF SIR CHIMAN LAL SETALVAD

Mr. Speaker: We need not pursue the matter now. There is no particular objection. It is only a deviation from the old practice and therefore some explanation was necessary as to why the practice was deviated from. I do not think there is anything serious about it.

I think we should proceed with the legislative business. The agenda is so heavy that Honourable Members, if they want to have any discussion about the question of attendance register, may see me in the Chamber and discuss about it.

Now, before we begin the work of the day, there are two matters to which I should like to invite the attention of Honourable Members.

I refer first to the very sad demise of Sir Chimanlal Setalvad. He was a Member of the Council of State. Of course, he died at the ripe age of 83. We all know the services that he rendered to our country. The link between the old and the new in our fight for national freedom on all sides—political, educational and social—passes away with him. As a mark of respect, therefore, we record his services, mourn his loss, and convey our condolences to the family of the deceased; and the House will show him respect by standing for a minute.

SUSPENSION OF QUESTION HOUR

Mr. Speaker: Now the other matter to which I should like to invite the attention of the House is about the very heavy agenda that we have before us for today and tomorrow. If we mean business and are intent upon finishing the agenda by tomorrow evening by 5 O'clock, we must resort to several methods. One of them is to spare the question hour. That will give us two hours more; and the other will be to limit the length and the number of speeches.

An Honourable Member: Control.

Mr. Speaker: There is no question of decontrol here now. There is the question of more sterner controls, but these controls will come from within; because most of the business will be legislative business and I do not like to fix a time limit when the House is proceeding with legislative business. Therefore it will not be for the Chair to exercise that control, but it will be for Members themselves to exercise control as regards speeches, and such control from within must be of a sterner type. So what is the wish of the House as regards the Question Hour both for today and tomorrow?

Shri Deshbandhu Gupta: The question hour should not be dispensed with.

Mr. Speaker: I have told the House that, even if there is one Member who would like to keep the question hour, I should not suspend it.

Is the Honourable Member persistent in his objection?

Shri Deshbandhu Gupta: I leave to you, Sir, but I would appeal to you.....

Mr. Speaker: The matter is certainly in my discretion, but as I have told very often in this House, I would not like to exercise discretion in this matter without the unanimous consent of this House. It seems the Honourable Member, though very eager for having the question hour, is not pressing his objection. That is how I may put it. Then the question hour for today and tomorrow will be suspended, and the House will proceed with legislative business.

Before that I have to make some announcements. There are short notice questions. Of course, they will not stand suspended.

STARRED QUESTIONS AND ANSWERS†

WRITTEN ANSWERS.

PERMITS FOR SALE OF CEMENT

804. *Shri Amiyo Kumar Ghosh: (a) Will the Honourable Minister of Industry and Supply be pleased to state whether it is a fact that a huge quantity of cement is lying in cement godown of the Sone Vally Portland cement factory, Japla?

(b) Are Government aware that the system of obtaining permits from Calcutta is leading to delay in the sale of cement and to corruption?

(c) Are Government aware of the resentment among the people of Bihar due to the above method?

(d) Do Government propose to abolish the system of obtaining permits and allow free local sale of cement at a controlled rate?

The Honourable Dr. Syama Prasad Mookerjee: (a) Yes, Sir.

(b), (c) and (d) The Government of India have decided to alter the existing system of distribution, and to introduce from the 1st January, 1948 a revised system under which each Provincial Government will be responsible for the distribution of cement allocated for consumption in their territories.

MANUFACTURE OF LOCOMOTIVES IN INDIA

805. *Shri Deshbandhu Gupta: (a) Will the Honourable Minister of Railways be pleased to lay on the table of the House a statement regarding the position of the manufacture of locomotives in India?

(b) What is the number of serviceable and other locomotives with the railways at the moment?

(c) What is the number of locomotives immediately required by railways in India?

(d) How many locomotives are expected from abroad?

The Honourable Dr. John Matthai: (a) A statement as desired by the Honourable Member is being tabled.

(b) Excluding the number of locomotives on the former North-Western and Bengal Assam Railways, to be allotted to India, the total number of locomotives on the Indian Government Railways now is approximately as under:

Broad Gauge	...	...	4,495
Metro Gauge	...	...	1,696
Narrow Gauge	...	...	142
		—	6,333
		—	

The division of the locomotives on the former North-Western and Bengal Assam Railways, on the basis of Radcliffe award has not yet been finalised.

(c) It was anticipated, before partition, that roughly an increase of 25 per cent. in locomotives as compared with the stock in 1946-47 will be required during the next 10 years. This estimate will have to be revised in view of the subsequent changes in the country. This estimate will require further revision if schemes for electrification on certain railways which are now under consideration fructify.

(d) 573 locomotives are expected from abroad and 68 locomotives from indigenous industry. The distribution of these locomotives between India and Pakistan has not yet been finalised.

†Answer to these questions laid on the table, the question hour having been suspended with.—Ed. of J.

Statement regarding position of the manufacture of Locomotives in India.

Two Senior officers were placed on special duty by Government to investigate the question of manufacture of locos. in Government Railway workshops in India. Their report which was received in 1940 was to the effect that locomotives could be manufactured in India by converting the existing loco. repair shops at Kanchrapara: they recommended that the work carried out in these repair shops should be distributed between the workshops of the other two contiguous railways at Calcutta and the entire capacity of Kanchrapara Loco. shops be utilised for the building of Locomotives and boilers. Owing to various developments during the war the Government loaned the Kanchrapara. loco repair shops to the Supply Department for the manufacture of munitions; arrangements were made for the transfer of work then carried out at Kanchrapara. to the Khargpur workshops of the B. N. Rly. and Jamalpur workshops of the E. I. Railway. Government made the above arrangements in the belief that with this off-loading of the repair work, Kanchrapara repair shops would be available for the manufacture of locomotives on release by the Supply Department after completion of Munition work.

Due to the insistence of the War Resources Committee of Council it was decided in 1942 that planning for building locomotives in India should proceed. In October 1942 therefore the assistance of the Consulting Engineers for the preparation of a complete plan for re-modelling the Kanchrapara workshops to build 120 complete B. G. locomotives and 120 boilers per annum was obtained. The Consulting Engineers' final report reached India in a number of separate despatches, the first arriving in December, 1944 and the last in July 1945. Prior to the receipt of all these despatches certain Mechanical and Civil Engineering officers were placed on special duty with the B. A. Rly. to prepare final plans and estimates.

In April, 1945, however, it was found that the war time expedient of farming out the repair load of the B. A. Railway to the workshops of the two contiguous railways was not working satisfactorily and that the release of the Kanchrapara workshops for loco. building would cause the B. A. Railway serious embarrassment. In December 1945 the General Managers of the three Calcutta Railways considered the matter and stated categorically that alternative capacity for Kanchrapara did not exist and could not be provided on the East Indian and B. N. Railways. The Railway Department reviewed the entire position at a meeting in mid-July 1946 with the representatives of the railways concerned and the question as to whether a separate manufacturing works or a combined repair and manufacture works should be provided, was gone into great detail. The Government then decided that if locomotives were to be manufactured in India, a separate workshop for this purpose must be provided and the site selected was Kanchrapara (North). The Government also decided that the loco. building workshop should be designed for the production of 120 locomotives and 50 additional spare boilers per annum working single shift; that provision should be made for the construction of quarters, etc., for the staff and for the supply of water and lighting and building of roads, drains, hospitals, etc.

It may be mentioned that the then Honourable Member for Railways Mr. Asaf Ali approved of the actual site referred to above and initiated the arrangements necessary for the commencement of production of complete locomotives from December 1950. An estimate amounting to Rs. 11.4 crores was approved by the Standing Finance Committee for Railways and the Government appointed M/S. Braithwaites, Burns and Jessop group as the main, and M/S. Hind Construction Co., as the secondary contractors for the construction of workshop structures. Arrangements were made for the building of the workshop colony with a number of contractors and substantial initial progress was made. Arrangements were also made with the Industry and Supply Department to expedite procurement action for obtaining Machinery and Plant from U. K. and indigenous trade. In order to further expedite the procurement of machinery and plant from U. K. a senior railway officer was sent in May 1947 to U. K. to expedite the work necessary before tenders were called for from the manufacturers of machine tools in U. K. This officer returned to India in September after completing the preparatory work on a large majority of the item. The Government are also actively taking steps for procuring suitable machines of Indian Manufacture to the maximum extent possible.

Consequent on the announcement in June 1947 of the proposed constructional changes and pending the Boundary Commission's award, orders were issued to suspend all construction work at Kanchrapara (North). As considerable quantities of steel had been ordered by M/S. Braithwaites, Burns and Jessops, it was decided recently to authorise the firm to continue the manufacture of steel work to the programme originally drawn up for the project. It was also decided not to disturb the procurement action that was already in hand both in U. K. and in India for the machinery and plant required for this scheme. Though as a result of the Boundary Commission award, Kanchrapara (North), the site selected for loco. building workshop, falls in India, the Government decided that a workshop of this importance should not be located close to the frontier. Instructions have been issued to the East Indian Railway for surveys to be carried out for the selection of a suitable site in the area between Asansol, Jhaja of West Bengal.

It will thus be seen that the actual construction of the loco-building workshop is now pending the selection of a site. Arrangements will be made to proceed with the work with as little delay as possible; the Government have in fact accorded special priority for all questions in respect of loco-building scheme in India.

The E. I. Railway workshops at Singhbhum were sold to Messrs. Tatas during 1945. This has brought into being the Tata Locomotive and Engineering, Co., Ltd. (TELCO) who have entered into an agreement with the Government for the manufacture of 50 locomotives and 50 additional boilers per annum in this workshop. An order for 100 locomotive boilers has been placed on this firm; a further order for 58 locomotive boilers has recently been placed with them. The first locomotive boiler was delivered by TELCO in July 1947. The Company's scheme for the manufacture of locomotives in the workshops was approved by the Government in May 1947. Under the agreement with TELCO the firm is required to commence manufacture of locomotives within a period of two years from the date of receipt of the necessary plant and machinery at their works. No estimate can, however, be made of this date.

Ajmer workshops of the B. B. and C. I. Railway have been manufacturing locomotives to a limited extent for a number of years. At present these workshops are engaged on the manufacture of 10 XTI locomotives. Orders have been placed on this workshop for the manufacture of 58 YB locomotives, boilers for which will be supplied by TELCO. In view of the Government's scheme to have a separate workshop for loco. building and in view of the difficulties that exist in developing Ajmer as a repair-cum-manufacturing workshop the Government have decided that as soon as the Ajmer workshops have completed their present commitments they will cease to manufacture locomotives. It is the Government's intention that if the new locomotive building workshop comes into existence before the order for 58 YB locomotives is completed at Ajmer the entire work will be transferred to the new loco-building shop.

As far as the present position is concerned, it is possible for the Government to say that practically all the normal requirements of the Indian Railways in respect of locomotives would be met by indigenous manufacture. If the requirements of Indian Railways in respect of replacement over the next 15 years are taken into account it will be found that the capacity being provided for in the loco-building workshops of the Government and of the private enterprise, would be sufficient to meet these requirements. If, however, it is found that the railways have to undertake a large development of their lines and to extend the existing railway mileage, more locomotives would be required. As against this, the Government are considering electrifying certain sections of the Indian Railways which proposal if it fructifies would reduce the requirement of steam locomotives on replacement account during a period of the next 15 years.

REMOVAL OF CONTROLS.

806. *Shri Deshbandhu Gupta: (a) Will the Honourable Minister of Industry and Supply be pleased to state the Government of India's policy with regard to various controls now in force in the country?

(b) Do Government propose to decontrol commodities in the near future?

(c) If so, how do Government propose to give effect to that policy?

(d) What steps Government propose to take simultaneously with the lifting of controls against anti-social elements who want to create artificial shortage.

The Honourable Dr. Syama Prasad Mookerjee: (a) to (d) The future policy of the Government of India regarding the controls with which the Ministry of Industry and Supply are concerned, namely, coal, steel, textiles and paper is still under consideration. A decision may be expected after the impending Industries Conference convened by Government, at which the future of controls amongst other matters will be discussed with Provincial Ministers and representatives of industry and labour.

FREIGHT PAID ON FOODSTUFFS IMPORTED.

**807. * { Shri T. T. Krishnamachari: }
 { Shri K. Santhanam: }**

Will the Honourable Minister of Food be pleased to state the amount of shipping freight paid during 1945-46 and 1946-47 in respect of import of foodstuffs from different countries such as the United States of America, Canada, Australia, Turkey, etc., showing the nature of foodstuffs, the quantities imported,

the names of the countries from which foodstuffs have been imported, the names of the shipping companies, the names of vessels in which foodstuffs have been imported as well as the rates of freight and the total amount of freight paid?

The Honourable Dr. Rajendra Prasad: The total amount of shipping freight paid by the Government during 1945-46 was 6.04 crores, and during 1946-47 was 17.36 crores.

Two statements are laid on the table of the House—one relating to 1945-46 and the other to 1946-47, in which full details have been furnished so far as the countries of origin and the quantities imported are concerned. Shipwise particulars are available, but, as the number of ships involved is over 700, I hope the Honourable Members will appreciate the difficulty of compiling and circulating a statement. The Ministry would however be glad to provide them all facilities for obtaining information regarding any particular shipping company, or particular ships or particular countries as the Honourable Members may desire.

Statement showing imports of Foodgrains and Foodstuffs from each country during 1945-46 and Freight charges paid.

Country of Origin	Nature of Food-stuff	Food-	Quantity Im-	Amount of freight paid in' 000		
				ported	(pounds)	\$(dollars)	Rupees.
Australia	Wheat		36,000 tons	207	..	..
	Condensed milk		106,607 cases	..	..	167
	Cheese		27,128 cases	..	..	62
	Cheese		334 crates	..	..	5
	Canned meat		7,599 cases	..	..	25
Burma	Rice		75,000 tons	..	..	2,675
North America	Wheat		820,000 tons	3,193	3,570	..
Canada	Whole milk powder		1,500 drums	..	..	18
			4,300 cases	..	..	..
New Zealand	Separated milk powder		39,654 cases	..	..	246
			
Total				£ 3,400	\$ 3,570	R 3,195
Total				Rs. 604 lakhs.		

Statement showing imports of Foodgrains and Foodstuffs from each country During 1946-47 and Freight charges paid.

Country of Origin	Nature of Food-stuff	Quantity Im-	Amount of freight paid in' 000			
			ported	£(pounds)	\$(dollars)	Rs.(rupees)
Australia	Wheat		375,000 tons	1,180	..	..
	Flour		134,000 tons	423	..	..
	Millet		1,000 tons	..	..	..
	Barley		18,000 tons	55	..	..
	Wheat		558,000 tons	1,708	6,566	..
U. S. A.	Flour		37,000 tons	221	..	..
	Maize		116,000 tons	290	1,631	..
	Milo		155,000 tons	776	611	..
	Whole milk powder		360,895 cases	..	..	792
	Separated milk powder		32,744 drums	..	..	1,187
	Dehydrated potatoes		104,994 barrels	..	..	..
			464,644 cases	..	..	1,459
			30 cartons	..	..	..
	Condensed milk		1,400 tons	..	..	140
	Biscuits		400 tons	..	..	75
Turkey	Barley		96,000 tons	408	..	..
	Wheat		38,000 tons	132	..	..
U. K.	Flour		4,000 tons	30	..	..

Country of Origin	Nature of Food-stuff	Quantity Imported	Amount of freight paid in '000 £(Pounds) \$(Dollars) Rs. (Rupees)		
Canada	Wheat	165,000 tons	989	..	..
	Oats	32,000 tons	333	..	..
Burma	Condensed milk	280 tons	..	..	31
	Rice	299,000 tons	..	..	13,736
Siam	Maize	5,000 tons	..	..	240
	Rice	26,000 tons	89	..	..
Indo-China	Rice	11,000 tons	38	..	..
Brazil	Rice	73,000 tons	..	1,754	..
Argentina	Maize	258,000 tons	183	..	..
	Millets	20,000 tons	100	..	..
Egypt	Barley	18,000 tons	95	..	..
	Oats	3,000 tons	1	..	..
	Millets	40,000 tons	..	..	2190
Iraq	Barley	7,000 tons	..	..	377
	Millets	8,000 tons	..	..	448
Indonesia	Barley	123,000 tons	..	..	6,754
Abyssinia	Rice	36,650 tons	124	..	..
New Zealand	Millets	2,000 tons	*	..	..
	Separated milk powder	37,500 tons	..	..	203
	Milk powder and malted milk	135,234 lbs.	..	..	10
	Biscuits	50,000 cases	..	..	313
		Total	8,281	10,562	27,865
		Total	Rs. 1,736 lakhs.		

AVIATION TRAINING SCHOOL AT SAHARANPUR

808. * { Shri T. T. Krishnamachari }
 { Shri K. Santhanam }

(a) Will the Honourable Minister of Communications be pleased to state whether the school for training in various branches of aviation which is proposed to be established in Saharanpur has now been started?

(b) If not, what are the reasons for the delay and when is the school likely to commence working?

The Honourable Mr. Rafi Ahmad Kidwai: (a) and (b) The Civil Aviation Training Centre with two Schools, *vis.*, the Communications School and the Aerodrome School commenced functioning in Saharanpur in November, 1946. Necessary action to organise the Flying Training and Engineering and Mechanics Schools is in hand and it is expected to start them at an early date.

INDIA-BURMA AIR SERVICE

809. * { Shri T. T. Krishnamachari }
 { Shri K. Santhanam }

(a) Will the Honourable Minister of Communications be pleased to state whether it is a fact that Orient Airways still operates between Calcutta and Rangoon?

(b) Is this Company likely to shift its Headquarters to Pakistan and if so, do Government propose to give the license for Calcutta/Rangoon service to an Indian Airline?

(c) Is permission of the Burma Government necessary in respect of Indian-Burma Air Service; if so, was such permission obtained for the operation of Orient Airways?

The Honourable Mr. Rafi Ahmad Kidwai: (a) Yes, Sir, but as a Pakistan Company and not as an Indian Company.

(b) Orient Airways have shifted their Registered Office to Chittagong. The Air Transport Licensing Board has granted a provisional licence to Indian National Airways Limited to operate the Calcutta-Rangoon route for a period of 90 days, with effect from the 1st November, 1947.

(c) The reply to both parts of the question is in the affirmative.

EXTENSION OF INDIAN AIR LINES TO FOREIGN COUNTRIES

810. * { **Shri T. T. Krishnamachari**
Shri K. Santhanam }

(a) Will the Honourable Minister of Communications be pleased to state what progress has been made in respect of operation of Indian Air Service to foreign countries such as Iraq, Iran, Egypt, East Africa and the United Kingdom in the West and China, Burma, Malaya, Indonesia and Australia in the East?

(b) What are the difficulties that prevent the extension of Indian Air Lines to foreign countries in the vicinity of India?

The Honourable Mr. Rafi Ahmad Kidwai: (a) and (b). Constitutional uncertainties in last 12 months have held up the progress of schemes for the development of external air services. A daily service between Calcutta and Rangoon has, however, been in operation for over four months. It is also expected that an Indian Air Service from India to the United Kingdom will commence operation in May, 1948. The question of establishing services to other countries mentioned by the Honourable Member is also being considered.

AIR AGREEMENTS WITH FOREIGN COUNTRIES

811. * { **Shri T. T. Krishnamachari**
Shri K. Santhanam }

(a) Will the Honourable Minister of Communications be pleased to state the number of countries with which the Government of India have concluded Air Agreements?

(b) Has specific provision been made in such Agreements for operation of Indian Companies on such routes when they come into existence?

(c) How is traffic to be apportioned between the Foreign Lines and the Indian Lines on such routes?

The Honourable Mr. Rafi Ahmad Kidwai: (a) Three—United States of America, Netherlands and France.

(b) Yes, Sir.

(c) Traffic is not to be apportioned, but the airlines of each country, i.e., India and the other country concerned, are to enjoy equal opportunity to offer capacity to meet the requirements of the public for air transport on the agreed routes.

SEONI SUB-POST OFFICE IN CENTRAL PROVINCES

812. * **Seth Govind Das:** (a) Will the Honourable Minister of Communications be pleased to state whether it is a fact that Government wanted to dispose of a part of the compound of the Seoni Sub-Post Office, in the Central Provinces, and a letter to that effect was addressed to the Sub-Post Master, Seoni, some time in 1938-39 or thereabout?

(b) If so, what has happened to the proposal thereafter?

(c) Was any inquiry received in this connection by the Indian Posts and Telegraphs Department recently? If so, was not the person concerned directed to correspond with the Post Master General, Central Circle?

(d) Is it not a fact that no information has been supplied as yet to the inquirer by the said Post Master General?

(e) Will Government be pleased to supply the final and necessary information to the public of Seoni town, in this connection forthwith?

The Honourable Mr. Rafi Ahmad Kidwai: (a) No, Sir.

(b) Does not arise

(c) Yes, Sir. An enquiry was received in September last by the Ministry of Communications from a certain Zamindar of Seoni which was forwarded to the Postmaster-General of Nagpur for disposal.

(d) No, Sir. The Postmaster-General informed him in November that there was no proposal to sell any part of the Seoni Post Office land.

(e) Does not arise.

SCARCITY OF SALT

813. *Shri Mohan Lal Saxena: (a) Will the Honourable Minister of Industry and Supply be pleased to state whether Government are aware of the hardship people experience due to scarcity of salt all over India?

(b) If so what are the causes of the scarcity and what steps have been taken to remedy the same?

(c) Are Government aware that the quality that is being supplied is very unsatisfactory?

(d) If so, what steps are being taken to improve it?

(e) Is it a fact that the supply of rock salt has been totally stopped?

(f) If so, what steps Government propose to take to get the full quantity of salt that they were getting before partition?

The Honourable Dr. Syama Prasad Mookerjee: (a) According to our information, scarcity of salt has been felt in recent months not all over India but in certain areas, notably East Punjab, U.P., Bihar, south C.P. and Bombay.

(b) The causes were mainly: (1) Stoppage of supplies of rock salt from Khewra which affected East Punjab, U.P. and Bihar; (2) Railway transport difficulties which affected U.P. mostly; (3) Inadequate imports which affected Bihar; and (4) Cyclones and seasonal rains and labour troubles which affected supplies to south C.P. and Bombay.

Action taken to remedy the causes of the scarcity is as follows: (1) East Punjab and U.P. are being supplied from Sambhar. Daily despatches have been stepped up from about 90 wagons to over 160 wagons. (2) The import position is being closely watched and efforts are being made to increase imports for supplies to Bihar, C.P. and Bombay. (3) Production has been increased at the Government works in Rajputana and in private factories in Madras.

Government have a short-term and a long-term plan for increasing the production, bettering the quality and ensuring the distribution of salt at reasonable prices to the consumers.

(c) The quality supplied is in some cases unsatisfactory.

(d) A Committee of technical experts will shortly be appointed to suggest *inter alia* ways and means for improving the quality of Indian salt. In the meanwhile, the Salt Controller will take steps through a licensing system to ensure that bad quality salt does not get into the market in large quantities.

(e) Supplies of rock salt from Pakistan have been stopped since August 1947.

(f) Efforts are being made to get supplies from Pakistan in the way they used to come before the Partition. Action is being taken meanwhile to step up imports and increase production in India.

"RUNNING" AND "WORKING POWERS" OF PAKISTAN RAILWAY

814. ***Shri Lakshmi Kanta Maitra:** (a) Will the Honourable Minister of Railways be pleased to state the sections of the Bengal Assam Railway and the North Western Railway belonging to the Indian Dominion, for which the Pakistan Dominion Railway authorities hold "running powers" and *vice versa*?

(b) What is the respective route mileage involved in part (a) above?

(c) What are the sections of the Bengal Assam and North Western Railways belonging to the Indian Dominion, for which the Pakistan Dominion Railway authorities hold "working powers" and *vice-versa*?

(d) What is the respective route mileage involved in part (c) above?

(e) What are the respective average annual incomes of the sections involved in parts (a) and (c) above?

(f) What are the agreed arrangements of the "working powers" and the "running powers" and the financial or other obligations involved on the part of either Dominion Government?

(g) For what period are these "running" and "working" powers held?

(h) How have these arrangements worked so far?

The Honourable Dr. John Matthai: (a) to (d). A statement showing the sections of the old Bengal Assam and North Western Railways belonging to the Indian Dominion, over which Pakistan Railway authorities will hold 'running and working powers' and *vice versa*, with the route mileages involved, is placed on the table of the House.

(e) The information is not available.

(f) and (g) The details of the arrangements for 'working powers' and 'running powers' are still under consideration.

(h) These arrangements came into force only recently and it is too early to judge their working.

Statement.

Section	Route Mileage	Owing Dominion	Particulars of running and working power exercised by the other Dominion
<i>B. A. Railway</i>			
Dersana to Ranaghat	26,1/4	Pakistan.	Running Powers.
Benapol to Bongson	3	Pakistan.	Running Powers.
Bongson to Ranaghat	20,3/4	Pakistan.	Running Powers (for through trains to and from Khulna Section)
<i>N. W. Railway</i>			
Latu to Karimganj	6,3/4	Pakistan	Running Powers.
Radhikapur to Parbatipur	30	India	Running Powers.
Golakganj to Bamanhat	10	India	Running Powers.
Giladaha to Lalmanirhat	7,1/2	India	Running Powers.
Changrabanda to Lalmanirhat	53,1/2	India	Running Powers.
Chilhati to Siliguri	38,1/2	India	Working Powers.
Singhabad to Godagrighat	35,1/8	Pakistan	Working Powers.
Godagari Ghat to Lalgolaghat	Ferry	Pakistan	Working Powers.
Gandasghwala to Ferozepore Cantt.	7,1/2	India	Running Powers.
Derabaha Nanak to Narowal	10	Pakistan.	Running Powers.
Khem Karn to Sasur	8	Pakistan.	Running Powers.
Atari to Lahore	15	Pakistan	Running Powers.
Chanawala to Mcleodganj Road	17	Pakistan	Running Powers.
Hindumalkot to Mcleodganj Road	9,7/8	Pakistan	Running Powers.

SCALES OF PAY FOR TEACHERS IN RAILWAY SCHOOLS

815. *Shri Lakshmi Kanta Maitra (a) Will the Honourable Minister of Railways be pleased to state whether Government are aware that since 1929 the scales of pay of teachers in State Railway Schools in the Indian Union have been assimilated to the scales of pay of teachers of the same status in the Government Schools in the provinces in which they are situated?

(b) Is it a fact that in accordance with the same policy, when revised (and reduced) scales of pay were introduced by the different Provincial Governments during the years 1931 to 1935, these were also made applicable to teachers in Railway Schools in the Provinces concerned?

(c) Are Government aware that Provincial Governments of the United Provinces and Bengal have recently sanctioned revised and enhanced scales of pay for teachers in the Government Schools under their control, the Government of the United Provinces in March 1947 and the Government of Bengal in April 1946 and January 1947?

(d) If the answer to part (b) above be in the affirmative, are the revised scales or interim increases of pay as sanctioned by the Governments of the United Provinces and Bengal, proposed to be introduced in the East Indian Railway Schools in those Provinces? If not, why not?

(e) Are Government considering the desirability of regulating the scales of pay in the Railway Schools in accordance with the recommendations of the Pay Commission contained in para. 19, page 247, Part III of their Report or do they propose to continue the Provincial Scales of pay for teachers in the Railway Schools?

The Honourable Dr. John Matthai: (a) A decision to this effect was taken by the Railway Board in 1929 but it was given effect to only on the East Indian Railway.

(b) The answer is in the affirmative in so far as the East Indian Railway is concerned.

(c) Government are not aware of the scales of pay for teachers having been revised by the Governments of the U.P. and Bengal in 1946 and 1947. Information on this point is being obtained.

(d) and (e) The recommendations of the Central Pay Commission in so far as they relate to Railway Schools are at present under examination. In coming to a decision all relevant factors will be given due consideration.

DISPOSAL OF SCIENTIFIC EQUIPMENT.

816. *Shri P. Kunhiraman: Will the Honourable Minister of Industry and Supply be pleased to state:

(a) the policy of Government in the matter of disposal of scientific equipment by the Disposals Directorate;

(b) Whether Educational Institutions are allowed the chance of acquiring such equipment before they are offered for sale to others;

(c) whether any representations have been made by any University authorities in this matter; and

(d) if so, what action has been taken thereon?

The Honourable Dr. Syama Prasad Mookerjee: (a) Government's policy in the matter of disposal of scientific equipment, as of all surplus stores, is to meet the requirements of the Central Government and local Governments as a first priority.

(b) Recognised Educational institutions have been placed in priority No. 3, i.e., immediately after the Central Government and local Governments. If

their demands are sponsored by the Ministry of Education they are up-graded to priority No. 1.

(c) and (d). The Calcutta University authorities recently asked the Government of India for a general permit for the purchase of surplus stores for use in their laboratories. In reply they have been given inspection facilities to visit Disposal depots in order to make their selections, and have been asked to furnish Government thereafter with a list of their specific requirements. A similar request was recently received from the Indian Institute of Science, Bangalore, and a similar reply has been sent.

ADMISSION IN CENTRAL AGRICULTURAL COLLEGE

817. *Shri P. Kuntiraman: Will the Honourable Minister of Agriculture be pleased to state:

(a) the minimum requisite educational qualification for admission in the Central Agricultural College, Delhi;

(b) the reasons for the disparity if any; between the standards of agricultural education set by the Government of India and by the provinces; and

(c) whether Government propose to advise the provinces and the Inter-University Board to adopt the minimum qualification as prescribed by the Government of India for admission to the Central Agricultural College?

The Honourable Dr. Rajendra Prasad: (a) The minimum qualification for admission to the Central College of Agriculture is Matriculation or Certificate of the Board of Higher Secondary Education, Delhi Province.

(b) The disparity that exists is due to the fact that the University of Delhi, to which the Central College of Agriculture is affiliated, has a three years Degree Course instead of four years duration as in the other Universities of the Indian Dominion.

(c) The suggestion will be considered by Government.

REMODELLING OF TELLICHERRY STATION

818. *Haji Abdus Sattar Haji Ishaq Seth: (a) Will the Honourable Minister of Railways be pleased to state, with reference to the answer to my starred question asked during the last Budget Session of the Central Assembly, whether the necessary preliminaries for the remodelling of Tellicherry Station have been taken in hand?

(b) If so, when will the work be started?

(c) Is the construction of the line between Tellicherry and Mysore under active consideration?

The Honourable Dr. John Matthai: (a) and (b) In March 1947, during the last Budget Session, the Honourable Member was informed that the remodelling of Tellicherry station was included in the South Indian Railway's Post-war plan for the year 1949-50. The Railway Board have very recently approved of the remodelling of this station being undertaken in 1948-49 now and the Railway will in due course take in hand the preliminary arrangements for carrying out this work.

(c) No.

CATERING ARRANGEMENTS IN S. I. RAILWAY

819. *Shri O. V. Alagesan: (a) Will the Honourable Minister of Railways be pleased to state whether it is a fact that the Spencer and Company who cater for the higher class passengers, pay an annual rent of rupee one only for their catering arrangements on the South Indian Railway, which is called 'Pepper Corn' rent?

(b) Are there such establishments on other Railways paying such rent and if so, what are they?

(c) Is it a fact that Indian catering establishments, stall-holders and even vendors on platforms who cater for the lower class passengers pay much more in the form of license fees fixed by the Railway Administrations on the basis of space occupied, volume of business, etc.?

(d) If the answer to part (c) above be in the affirmative, do Government propose to abolish this distinction and patronage and tax the establishments now enjoying concession on the same basis as applies to the Indian Establishments?

The Honourable Dr. John Matthai: (a) Messrs. Spencer and Co. pay a rent of Re. 1 per mensem per station on the S.I. Railway.

(b) There are four other Government Railways which are charging nominal rents as follows—

Assam Railway	} European Style caterers
B.B. and C.I. Railway	
M. and S.M. Railway	

G.I.P. Railway—European-Style and Indian Refreshment Room Caterers.

(c) Yes. This is so in the case of Assam, B.B. and C.I., M. and S.M. and S.I. Railways.

(d) The whole question is now under examination.

COW-DUNG GAS PLANT.

820. *Shri O. V. Alagesan: (a) Will the Honourable Minister of Agriculture be pleased to state whether it is a fact that the Pusa Agricultural Institute has been for some years experimenting with a plant to produce gas for fuel and lighting purposes from cow-dung with manure as a bye-product?

(b) If so, are Government in a position to place the plant on the market?

(c) In view of the great utility of the plant for the rural agricultural population, do Government propose to undertake the manufacture of the plant on a large scale and price it low, and if necessary, subsidise it?

The Honourable Dr. Rajendra Prasad: (a) Yes.

(b) and (c) The process has not yet been tried under rural conditions. The out-put of gas varies according to seasons, there being a sharp decline in winter.

Prof. N. V. Joshi, formerly Assistant Agricultural Bacteriologist of the Institute, has taken out a patent for a design suitable for home use and has taken up the erection and supply of small scale plants at Poona for the production of fuel gas for domestic use as well as for use in small laboratories. The results of that experiment are awaited.

IMPORT OF MOTOR CARS AND TRUCKS.

821. *Shri Lakshminarayan Sahu: (a) Will the Honourable Minister of Industry and Supply be pleased to state the present export prices in India of (1) a complete car and (2) truck chassis of each of the following makes:—

- (i) Ford;
- (ii) Chevrolet;
- (iii) Oldsmobile;
- (iv) Pontiac; and
- (v) Studebaker?

(b) Which of the above are assembled in India and where?

(c) What are their prices in the United States of America to (i) the trader and (ii) the consumer?

(d) Is the import of the cars and other motor vehicles which are already assembled abroad and are ready for use in India discouraged by import restrictions?

(e) Are the Studebaker cars and trucks handled in India by the Hindustan Motors?

(f) Is the Hindustan Motors owned or managed by the Birla interests?

(g) What are the reasons for the disparity in the prices in India of cars and trucks handled by the Hindustan Motors and others?

The Honourable Dr. Syama Prasad Mookerjee: (a) A statement is laid on the table of the House.

(b) All are assembled in India. Fords are assembled by Messrs. Ford Motor Co. of India Ltd., at Bombay, Madras and Calcutta, Chevrolet Oldsmobile and Pontiac by General Motor Works at Bombay and Studebaker by Hindustan Motors Ltd., at Okha and Calcutta.

(c) and (g) The information is being collected and will be laid on the table of the House when ready.

(d) In order to encourage assembly and manufacture in India, the import of vehicles in a Knock-down condition is considered preferable to the import of fully assembled vehicles

(e) Yes, Sir.

(f) The Hindustan Motors is a limited liability Company and their Managing Agents are the Birla Brothers.

Statements

(a) Cars	Price
(1) Ford Super Deluxe Fordor Sedan Genuine leather upholstery 6.00x16 (4 Ply) (5)	Rs. 9,990 Ex-Bombay Retail.
(2) Chevrolet.	Rs. 9,195 Ex-Plant Bombay.
(3) Pontiac.	Rs. 10,930 Ex-Plant Bombay.
(4) Oldsmobile.	Rs. 11,250 Ex-Plant Bombay.
(5) Studebaker Champion Regal DeLuxe.	Rs. 12,950 Ex-Ports.
Studebaker Commander DeLuxe.	Rs. 14,950 Ex-Ports.
Studebaker Land Cruiser.	Rs. 15,950 Ex-Ports.
(b) Trucks :—	
(1) Ford 114" Wheelbase Light Delivery Van equipped with 6.00x16 (6 Ply) tyres (5)	Rs. 6,700 Ex-Bombay Retail.
114" Wheelbase Chassis with Windshield equipped with 6.00x16 (6 Ply) tyres (5)	Rs. 5,700 Ex-Bombay Retail.
122" Wheelbase Chassis with Windshield, equipped with 7.00x17 (8 Ply) tyres (5).	Rs. 6,375 Ex-Bombay Retail.
Super DeLuxe Station Wagon, Genuine leather upholstery 6.00x16 (6 Ply) tyres (5).	Rs. 9,515 Ex-Bombay Retail.
134" Wheelbase Standard Chassis with windshield equipped with 6.00x20 (8 Ply) tyres front (2) and 32x6 (10 Ply) tyres rear (2)	Rs. 6,775 Ex-Bombay Retail.
134" Wheelbase Heavy Duty Chassis with windshield equipped with 32x6 (10 Ply) tyres (6) dual rear and auxiliary rear springs.	Rs. 7,500 Ex-Bombay Retail.
153" W. B. Standard Chassis with windshield equipped with 6.00x20 (8 Ply) tyres front (2) and 32x6 (10 Ply) tyres rear (2)	Rs. 6,965 Ex-Bombay Retail
158" W. B. Heavy Duty Chassis with windshield, equipped with 31x6 (10 Ply) tyres (6) dual rear and auxiliary rear springs.	Rs. 7,770 Ex-Bombay Retail.
176" Wheelbase Heavy Duty Chassis with windshield equipped with 34x7 (10 Ply) tyres (6) dual rear and auxiliary rear springs.	Rs. 8,655 Ex-Bombay Retail.
194" Wheelbase Special Bus chassis with windshield, equipped with 25x20 (10 Ply) tyres (5) dual rear, 6-volt Electrical System and Booster Brakes.	Rs. 9,445

Price

Trucks:—contd.

	194" Wheelbase Special Bus Chassis with windshield equipped with 8.25x20 (10 Ply) tyres (6) dual rear, 12-volt* Electrical system and Booster Brakes.	Rs. 10,330
(2)	Chevrolet 3130 115" W. B. with Steel cab.	Rs. 5,995 Ex-Plant Bombay.
	Chevrolet 3112 115" W. B. with Cowl and windshield (without cab)	Rs. 5,120 Ex-Plant Bombay.
	Chevrolet 3603 125" W. B. chassis with steel cab	Rs. 6,720 Ex-Plant Bombay.
	Chevrolet 361 125" W. B. with cowl and windshield(with out cabs).	Rs. 5,845 Ex-Plant Bombay.
	Chevrolet 4103 134½" W. B. with steel cab.	Rs. 7,440 Ex-Plant Bombay.
	Chevrolet 4112 134½" W. B. with Cowl and windshield	Rs. 6,565 Ex-Plant Bombay.
	Chevrolet 4403 116" W. B. with Steel cab 3 ton	Rs. 8,625 Ex-Plant Bombay.
	Chevrolet 4412 116" W. B. with Cowl and windshield	Rs. 7,750 Ex-Plant Bombay.
	Chevrolet 6403 160" W. B. with steel cab 5 ton.	Rs. 9,655 Ex-Plant Bombay.
	Chevrolet 6412 160" W. B. with Cowl and windshield	Rs. 8,780 Ex-Plant Bombay.
	Chevrolet 6712 195" W. P. Bus Chassis.	Rs. 9,790 Ex-Plant Bombay.
(3)	Pontiac	There is no truck of this make.
(4)	Oldsmobile.	Information not available.
(5)	Studebaker.	Information not available.

TOBACCO RE-DRYING MACHINES.

822. *Professor N. G. Ranga: Will the Honourable Minister of Agriculture be pleased to state:

(a) whether it is a fact that the tobacco re-drying machines strengthen the capacity of tobacco growers to store their cured tobacco for a much longer period than at present in anticipation of better prices and also as an insurance against any temporary and sudden fall in tobacco prices;

(b) whether it is a fact that the All India Central Tobacco Committee has been assured that a re-drying machine would be obtained by Government and placed at the disposal of the Tobacco Growers Co-operative Societies;

(c) whether any steps are being taken to purchase such a machinery for our tobacco growers;

(d) whether Government are aware that at least 6 machines are needed, 4 for Andhra, 1 for Bengal and 1 for Guzrat; and

(e) when Government hope to bring that machinery actually and offer it at concession rates to Tobacco Growers Co-operative Societies?

The Honourable Dr. Rajendra Prasad: (a) Yes.

(b) The Indian Central Tobacco Committee has decided to purchase, with the concurrence of the Finance Ministry, a Re-drying Machine for the exclusive benefit of small growers, but no definite assurance has been given yet that the plant will be placed at the disposal of the Tobacco Growers' Co-operative Societies.

(c) Yes.

(d) Government are aware of the fact that more than one plant are required, but the Indian Central Tobacco Committee, at its meeting held in October, 1947, decided to import only one on its account for the present and to assist private firms in securing import permits for more machines.

(e) If orders are placed abroad now, the machine is expected to arrive by 1949.

PISCICULTURE OF FISH IN WEST BENGAL.

823. *Shri Basanta Kumar Das: Will the Honourable Minister of Agriculture be pleased to state:

(a) whether Government are aware that fish is one of the principal articles of protein food in West Bengal;

(b) whether Government are aware that in West Bengal the supply of fish from natural sources like the rivers and the sea has suffered a serious deterioration and the situation is worsening from year to year;

(c) what steps Government have taken or propose to take for adequate pisciculture in West Bengal; and

(d) whether Government propose to consider the desirability of creating training centres for pisciculture and starting fisheries in suitable areas?

The Honourable Dr. Rajendra Prasad: (a) Yes.

(b) No, Sir, the Government of India are not aware of any such serious deterioration.

(c) The development of Inland and Coastal fisheries is a matter for the Provincial Government but the Government of India are giving financial aid to such schemes as are expected to increase the production of fish. The Government of India have also established a research station for Inland and Estuarine fisheries near Calcutta.

(d) Yes. The Government of India had conducted at Calcutta 4 training classes in Inland Fisheries with the help of the Provincial Government. It is proposed to start the next training class in Inland Fisheries at Calcutta during the coming summer.

AGRICULTURAL INSTITUTIONS IN INDIA.

824. *Shri Basanta Kumar Das: Will the Honourable Minister of Agriculture be pleased to state:

(a) the names of agricultural institutions in different provinces and the number of students in each institution;

(b) whether Government are aware that the present number of agricultural institutions is quite inadequate for a vast agricultural country like India;

(c) whether Government propose to consider the desirability of starting agricultural institutions all over India within as short a time as possible and of directing all Universities to make agriculture a subject in the course of studies for secondary education and for higher studies also; and

(d) whether, in view of the fact that the province of West Bengal, after partition has been left without a single agricultural school or college, Government propose to consider the desirability of taking such steps as may conduce to the establishment of an agricultural college in that province without delay?

The Honourable Dr. Rajendra Prasad: (a) A statement giving the required information is placed on the table of the House.

(b) Yes.

(c) The matter is already under the consideration of the Government of India.

(d) Excepting the agricultural school at Chinsura and an institution of similar nature at Barrackpur, there is no other institution of this type of University or lower standard in the new province of West Bengal. The initiative for starting an agricultural College has to come from the Provincial Government. The Central Government have already started a Central College of Agriculture in Delhi to cater for the requirements of the Centrally Administered Areas, Indian States and those Provinces of the Dominion of India which do not possess Agricultural Colleges. Students from West Bengal are also admitted to this College and several have already joined.

List showing the names of agricultural institutes in different Provinces in the Dominion of India and the number of students in each

Province	Names of Institutes	Standard	Total number in all the classes	Total output in a year
1	2	3	4	5
Assam	Nil.		Nil.	Nil.
Bengal	Chinsura Agricultural School	School	20	11(1943-44)
(West)	Agricultural school, Barrackpore.		Not known.	
Bihar	Agricultural College, Sabou	Patna University	Not available.	
Bombay.	Agricultural College, Poona	Bombay University.	229	60(1943-44).
	Agricultural Institute, Anand		Not known.	
	Agricultural High School, Godhra.	School.	60	(1941-42)
	Agricultural High School, Jaigoan.	School.	62	(1941-42).
	Agricultural High School, S' tara,	School.	126	(1941-42).
	Agricultural High School, Bijapur.	School.	126	(1941-42).
	Special Agricultural, School, Dhilia.		59	(1941-42).
	Special Agricultural School, Devihosur.		34	..
	Special Agricultural School, Rajapur.		25	..
	Special Agricultural School, Puntamba.		27	..
	Primary School, Agricultural Bias Classes.	..	43/43	..
	Special Horticultural short courses, Ganesh khind	Not known		
	Sheet Mansuk Lal Chagan Lal School of Agricultur. Anand	..	55	11
O.P.& Berar	Agricultural College Nagpur	University	131	..
	Government Agricultural Anglo-Hindi Middle School	School. ..	177	..
East Punjab	Khalsa College.	University	131	..
Madras.	Amritsar.			
	Agricultural College, Coimbatore.	University.	122	33
	Agricultural College, Bapatala.	University.	Not known.	
	Juvenile Labourers School Coimbatore	School.	25	
	Juvenile Labourers School Sawalkot.	School.	15	..
	Juvenile Labourers School Palur.	School.	30	..
	Juvenile Labourers School Anakapalli.	School.	32	..
Orissa.	Nil		Nil.	Nil.
United Provinces.	Government Agricultural College, Kanpore.	University.	326	74
	Agricultural Instt. Allahabad.	University.	144	..
	Amarsingh K. E. M. U. Jat College, Lakhot.	..	236	42
	Jay Vedic Agricultural College, Baraut.	..	42	21
	School of Agricultural School, Bulandshahr.	School.	80	37
	Government Agricultural School, Gorakhpur.	School.	85	..

825. *Shri Satis Chandra Samanta: (a) Will the Honourable Minister of Railways be pleased to state whether Government are aware of a case of pilfering by breaking open wagons lying between Machada and Bhogpur Railway Stations on the Bengal Nagpur Railway in the month of October 1947?

(b) Is it a fact that the case was enquired into by the Railway Police and the local Police and the culprits were found out in the presence of many gentlemen of the locality?

(c) If the answer to part (b) above be in the affirmative, what steps have Government taken or intend to take against the culprits?

(d) Have Government received any representation from the public of the locality regarding the occurrence?

The Honourable Dr. John Matthai: (a) and (b) No such case was reported in October, 1947. As a result of secret information, the Railway Police, in company with District Police, made searches in the neighbourhood of Bhogpur when some stolen cloth and tobacco were found. It is understood that those responsible have not so far been detected.

(c) Does not arise.

(d) The local residents made certain allegations against the Police Officer in charge of the search party, as a result of which a chargesheet under Section 161, Indian Penal Code, has been filed and the officer in question is reported to be under suspension.

RELEASE OF WAGONS OCCUPIED BY STAFF IN B. N. RAILWAY.

826. *Shri Upendra Nath Barman: (a) Will the Honourable Minister of Railways be pleased to state whether it is a fact that many wagons have been held up at Domohani Junction (Bengal Doors Zone, Chaugrabanda to the north of old Bengal Assam Railways) for some months in order to shelter labour and office staff who opted from Pakistan?

(b) Is it a fact that Railway authorities sanctioned construction of about 60 quarters to be completed by 15th October last?

(c) Has the construction of quarters been completed and whether the large number of wagons occupied by labour and office staff have been released for normal transport?

The Honourable Dr. John Matthai: (a), (b) and (c) The information asked for is not readily available, and the reply from the Assam Railway, who were referred to, has not been received on account of the difficulty in communications. It will be placed on the table of the House, as soon as it is received from the Assam Railway.

CONSTRUCTION OF TELLICHERY-MYSORE RAILWAY LINE.

827. *Shri P. Kunhiraman: Will the Honourable Minister of Railways be pleased to state:

(a) whether the construction of the Railway line from Tellichery to Mysore is included in the programme of the Ministry;

(b) what were the findings of the preliminary survey of this region conducted by the experts in 1937; and

(c) whether, in view of the fact that this line is expected to be a financial success, Government propose to consider the question of giving an early priority to it?

The Honourable Dr. John Matthai: (a) The construction of a railway line from Tellicherry to Mysore is not included in the Post-war Reconstruction Plan of Railways, which had been drawn up in consultation with the Provincial Governments concerned.

(b) It appears that no preliminary survey for the construction of a railway line from Tellicherry to Mysore was carried out in 1937, but a preliminary survey for a railway line between Tellicherry and Nanjangud on the Mysore Railway was made in 1923-24. The reports of this survey revealed that the chief obstacles to such a railway are the descent of the precipitous Western Ghats, and the difficulty of choosing an alignment, which would serve a sufficiently wide number of interests to make it remunerative.

(c) In view of the replies to parts (a) and (b), the question of giving an early priority to the project does not arise.

• CULTIVATION OF FALLOW LANDS.

828. *Shri P. Kunhiraman: Will the Honourable Minister of Agriculture be pleased to state:

(a) why the "Grow More Food" campaign has been a failure;

(b) whether Government propose to encourage the cultivation of fallow lands in and round big cities; and

(c) if the answer to part (b) above be in the affirmative, whether Government propose to allow vegetables to be grown in the five thousand acres of land in New Delhi?

The Honourable Dr. Rajendra Prasad: (a) The Government of India do not agree that the Grow More Food campaign has been a failure. There have been some important limiting factors such as lack of materials like coal, iron and steel and fertilizers which have been in short supply for the last few years. Added to these has been the insufficiency of trained personnel. These factors, combined with the seasonal and natural causes over which Government has no control, explain why the results of the campaign have not been as satisfactory as one would wish. The Government of India have been rendering all possible financial, technical and other assistance to the Provincial Governments in implementing their Grow More Food Schemes.

(b) Yes.

(c) The Delhi Administration, under whose jurisdiction the land mentioned lies, will undoubtedly consider this. They could not, however, in the nature of things, make any commitment without knowing where actually the land is situated, whether the authorities to whom it belongs are agreeable to its being utilised and whether the cultivation of the same will affect the sanitation of the city.

WAGONS FOR FIRE WOOD.

829. *Shri Jaspal Roy Kapoor: Will the Honourable Minister of Railways be pleased to state:

(a) the priority number for wagons for fire wood:—

(i) for civil supply under Government permit to District Magistrate's nominees in the United Provinces; and

(ii) for fire wood transported by private individuals for their own trade purposes; and

(b) how many wagons were allotted from stations in the Bundelkhand and Pilibhit Forest Divisions to Agra District Magistrate's nominees for Agra city and Ferozabad respectively between June 1947 and October 1947, and how many wagons from stations in the same Divisions in the same period were allotted to private individuals?

The Honourable Dr. John Matthai: (a) (i) Class II (a), (ii) Class V.

(b) 197 wagons were allotted on the G.I.P. Railway for loading firewood from stations in Bundelkhand Forest Division, under Government sponsor, and 9 wagons for private individuals for Belangunj (Agra). No wagons were allotted for despatch to Ferozabad, on Government or private account.

As regards Pilibhit Forest Division, 20 covered and 750 caged wagons were supplied to the Forest Department, for transport of firewood, during June, July and August, 1947, the actual allocation of these wagons between Government sponsored and private traffic being left to that Department. During September and October, 1947, one covered wagon was supplied for nominees of the Agra District Magistrate, for Agra City and nil covered and 81 caged wagons were supplied to private individuals. It may be added that caged wagons are not permitted to be sent to the B.B. and C.I. Railway, and were loaded to local stations on the O.T. Railway.

IMPORT OF AGRICULTURAL IMPLEMENTS.

830. *Shri Suresh Chandra Majumdar: (a) Will the Honourable Minister of Agriculture be pleased to state whether Government have any statistics of draught cattle within the Indian Union?

(b) Are Government aware of the acute shortage of draught cattle for agricultural purposes?

(c) Do Government propose to import motor tractors from abroad to increase the production of food stuffs? If so, how many? If not, why not?

(d) Have Government received any requisitions from any provincial Government for import of motor tractors for agricultural purposes? If so, what are the provinces that have made such requisition?

(e) Do Government propose to import any other agricultural machinery or implements for the improvement of agriculture in India? If so, what are the categories of such machinery?

The Honourable Dr. Rajendra Prasad: (a) Statistics are available for the Indian provinces as they were before partition.

(b) Yes.

(c) Yes. 811 Nos.

(d) Yes. 1. Bombay, 2. United Provinces, 3. Bihar, 4. Madras, 5. Punjab, 6. Bengal, 7. Assam.

(e) Yes.

1. Grain Drills, 2. Ploughs, 3. Harrows, 4. Field Cultivators, 5. Power Sprayers, 6. Mowers, 7. Harvesters, 8. Ensilage Cutters, 9. Feed Grinders, 10. Ditchers and Terracers, 11. Leaning Wheel Graders, 12. Potato Planters, 13. Soil Pulverisers, 14. Thrashers, 15. Compost Turning Machines.

BUS SERVICE BETWEEN AMRAOTI AND BADNERA

831. *Dr. P. S. Deshmukh: (a) Will the Honourable Minister of Railways be pleased to state whether Government propose to change the timings of the railway service in such a way as to obviate the necessity of the bus service in case a fare of Re. 0-2-0 is not considered sufficient by the motor company to run motor buses between Amraoti and Badnera?

(b) Was there any company operating a bus service between Amraoti and Badnera?

(c) What was the name of the company and when was this company started?

(d) What was the date on which the service was inaugurated?

- (e) What is the name of the present company which runs the service?
 (f) What is the railway fare from Amraoti to Badnera?
 (g) What was the bus fare when the service was started and what is the bus fare now?
 (h) Are Government aware that the railway service between Amraoti and Badnera was proposed to be completely stopped?
 (i) Was such an order passed by the Central Government?
 (j) Have Government received any complaints from the Amraoti public against inadequate passenger service between Amraoti and Badnera?
 (k) Was any enquiry made to ascertain the advisability of stopping passenger service?

The Honourable Dr. John Matthai: (a) No. The railway timings are fixed to suit the convenience of the majority of the travelling public and with due regard to junction connections. It would not be possible to increase the frequency of services sufficiently to eliminate the parallel road service, nor would such a course be desirable.

(b) It is understood that there was no bus company operating the service between Badnera and Amraoti immediately prior to the inauguration of the present service.

(c) Does not arise in view of the answer to (b).

(d) The present service was inaugurated on 6th of June, 1945.

(e) The Central Provinces Transport Services, Ltd.

(f) Two annas for III Class.

(g) Three annas and three annas six pies respectively.

(h), (i) and (k). Owing to serious difficulty in meeting urgent civilian and military demands for passenger rolling stock during the war, the Central Government instructed Government Railways in December, 1944, that passenger trains on branch lines paralleled by nearby roads should, wherever possible, be withdrawn and replaced by road services. In pursuance of this policy, the G.I.P. Railway withdrew the passenger train service on the Amraoti-Badnera section in December, 1945, after enquiries had established that road transport would be able to provide an adequate substitute service for the public.

(j) Such representations have been made from time to time, but the Administration state that complaints have been less numerous on this section than on other portions of the system. The service has been restored as rakes became available, and today there are six trains in each direction as against seven trains in each direction provided before the war.

IMPORTS OF DRUGS AND MEDICINES.

832. *Shri S. Nagappa: (a) Will the Honourable Minister of Industry and Supply be pleased to state what percentage of drugs and medicines is imported from foreign countries out of the total quantity needed?

(b) What are the countries from which they are imported?

(c) Is there any proposal under the contemplation of Government for the manufacture of such medicines and drugs in this country?

The Honourable Dr. Syama Prasad Mookerjee: (a) About 30-35 per cent. of the country's total requirements of the items on the official list of drugs and medicines are imported. In addition, a large number of proprietary preparations are imported owing to their popularity in this country.

(b) The main sources of supply are the U.K. and the U.S.A. Small quantities are also imported from Australia, Canada, Belgium, Holland and Argentine.

(c) Yes, Sir.

POSTPONED STARRED QUESTION AND ANSWER

EXPLOITATION OF THE NORTH ANDAMAN ISLANDS

673. *Shri T. T. Krishnamachari: (a) Will the Honourable Minister of Agriculture be pleased to state whether the Government of India propose to hand over the North Andaman Islands forests to a private corporation for being exploited?

(b) If the answer to part (a) above be in the affirmative, who are the persons or interests that are to constitute the said corporation and what is the previous experience of each person or interest included in the said corporation in such business?

(c) What are the terms and conditions of the proposed agreement with the corporation and what is the nature of Government's interest therein?

(d) What are the royalties stipulated by Government to be paid by the corporation?

(e) What is the type of control that Government propose to exercise over the corporation?

(f) Are Government working the forests in South Andaman Islands departmentally; and, if so, with what result?

(g) Have the Ministry of Finance been consulted in the matter and their approval obtained?

The Honourable Dr. Rajendra Prasad: (a) to (e) and (g). In April, 1946 the then Government of India decided that exploitation of the Forests of North Andamans should be left to private enterprise. Applications were accordingly invited. Among the applicants the following four firms, *viz.*: (1) Messrs. Hind Construction, Limited, (2) Messrs. Dalmia Jain Ltd., (3) Messrs. Himatsingka Timber Limited, and (4) Messrs. Annamalai's Timber Trust Limited having sound financial backing and experience in Timber trade agreed to work the Forests jointly. The Government of India have been negotiating with these firms for the formation of a quasi-Government Corporation to work the Forests under adequate Government Control. The terms have not been finalised and are still under discussion with the Ministries of Agriculture, Home, Finance and Industry and Supply.

(f) Yes, with varying fortunes.

SHORT NOTICE QUESTIONS AND ANSWERS

COMMISSIONING OF CIVILIAN GAZETTED OFFICERS WITH AGE LESS THAN THIRTY-FIVE YEARS IN INDIAN ARMY

Pandit Hirday Nath Kunzru: (a) Will the Honourable Minister of Defence be pleased to state the number of Civilian Gazetted Officers on the 1st June, 1947, and the 30th November, 1947?

(b) How many of them were retained permanently before the 15th August, 1947?

(c) In view of the fact that a large number of British Officers will have to leave the Indian Army by the 31st December, 1947, and there is a shortage of Indian Officers, do Government propose to consider the desirability of commissioning those Civilian Gazetted Officers who are not more than 35 years of age?

The Honourable Sardar Baldev Singh: (a) The number of Civilian Gazetted officers of the Indian Army Ordnance Corps serving on 1st June, 1947 was 818, and on 30th November, 1947, 654. The figures in respect of other Civilian Gazetted officers employed by the Defence Services are not readily available.

(b) None, as the permanent establishment has not yet been fixed.

(c) A proposal is under consideration regarding the grant of commissions to Civilian Gazetted Officers of the I.A.O.C.

Pandit Hirday Nath Kunzru: How long has this proposal been under consideration?

The Honourable Sardar Baldev Singh: The proposal has been under consideration for the last few months and is now ready; I think it will be finally decided in the very near future.

Pandit Hirday Nath Kunzru: Have the Government changed their minds since April or May last, when the idea seemed to me to dispense with the services of practically all the Ordnance Officers (Civilian)?

The Honourable Sardar Baldev Singh: We propose to retain as many Ordnance Officers as we require.

Pandit Hirday Nath Kunzru: My question, Sir, was that till May last the Government seemed to think that the services of only a very small number of the Civilian Gazetted Officers in the Ordnance Department would be required; have their ideas changed since then and do they contemplate a larger employment of these officers in future?

The Honourable Sardar Baldev Singh: Yes, Sir.

COMMISSIONING OF CIVILIAN GAZETTED OFFICERS SERVING UNDER THE CONTROLLER OF STORES WITH AGE LESS THAN THIRTY-FIVE YEARS

Pandit Hirday Nath Kunzru: (a) Will the Honourable Minister of Defence be pleased to state the number of Civilian Gazetted Officers serving under the Controller of Stores in the Directorate of Technical Development?

(b) In view of the virtual disappearance of the British Officers employed in the section under the Controller of Stores do Government propose to grant permanent commissions to those Civilian Gazetted Officers who are not more than 35 years of age?

The Honourable Sardar Baldev Singh: (a) 86.

(b) Government will examine this suggestion.

PROVISION OF RAILWAY STAFF WHO OPTED FOR INDIA

Mr. R. K. Sidhwa: (a) Will the Honourable Minister of Railways be pleased to state whether it is a fact that about 700 inferior and 200 superior staff (Railway employees) who opted from Pakistan to India and arrived here in September, 1947, have not yet been provided with posts?

(b) Is it a fact that almost all of them are informed that they have to wait until vacancies occur?

(c) Is it a fact that when they ask for their salaries they are told that they will not get their pay unless they make applications for leave salary?

(d) Is it a fact that most of them have no accommodation in Delhi and that they and their families are stranded?

(e) Why are they not being provided with posts and accommodation?

(f) What is the policy of Government in this respect?

The Honourable Dr. John Matthai: (a) No. The position on 7th December, 1947 was that out of 24,000 India-opting employees of the North Western Railway who had reported to the Transfer Officers, India, up to that date, about 160 Class III (Superior) and 400 Class IV (Inferior) staff were awaiting posting orders.

(b) No. The staff for whom vacancies could not be found immediately have been and are being posted against supernumerary posts.

(c) No. Staff are being paid salaries either on the last pay certificates, where they are available, and in instances where they are not forthcoming, on the basis of their declaration of the particulars of their emoluments, previous employment, etc.

(d) No. The Railway Refugee Camp at Delhi has, with effect from 28rd October, 1947, been transferred to Ambala. The only staff, from amongst those who came from the North Western Railway, who are remaining in Delhi at present are those who were living outside the Railway Refugee Camp under private arrangements.

(e) Does not arise in view of reply to part (b).

(f) The policy of Government is to provide employment for all railway employees who have opted for India.

Mr. R. K. Sidhwa: Is it not a fact, Sir, that actually an order in writing has been given by the Department to those who have not yet been given appointments, saying that there is no vacancy? Is it also not a fact that they have to make an application for leave and on that leave application they were granted their salaries?

The Honourable Dr. John Matthai: Sir, as I stated in my answer, the position at present is that of these 500 employees who were awaiting posting orders on the 7th December, practically all were workshop employees. Now, it so happens that the Eastern Punjab Railway, under the partition arrangements, has no workshop at all; and therefore, it has been rather difficult to find positions for them here. For that reason now we have adopted the practice of creating supernumerary posts in Railway Administrations where there are workshops in order to have an opportunity of posting these people there.

Mr. R. K. Sidhwa: Is it not a fact that about a hundred of them belong to the establishment of the Commerce Department and the Transport Department?

The Honourable Dr. John Matthai: Even in those cases our idea at present is to provide supernumerary posts if there are no vacancies.

Mr. R. K. Sidhwa: Is it not a fact that the non-appointment of this staff is due to the policy of the Government of India and particularly due to those juniors who were promoted in place of those who opted for Pakistan, and therefore vacancies could not be found for them?

The Honourable Dr. John Matthai: No.

Mr. R. K. Sidhwa: Is it not a fact that in Bombay those who were asked to be posted to the B.B. and C.I. and the G.I.P., have all been appointed in all the Departments—if they belonged to Commerce they were taken on the establishment of Commerce Department? Is it also not a fact that in Delhi this has not been done?

The Honourable Dr. John Matthai: The postings have been made with reference to the substantive appointments that they have been holding.

Diwan Chaman Lal: May I ask the Honourable Member whether there are any cases that have been brought to his notice where the postings have not been made on that particular basis and a lower salary or grade has been granted to these people who come from Pakistan?

The Honourable Dr. John Matthai: If there are cases of that kind, I am prepared to look into them.

Mr. Speaker: I have received notice of an adjournment motion. The Honourable Member is not in his seat, I find; so I need not refer to it. We shall now proceed with the other business.

ELECTION TO STANDING COMMITTEE FOR MINISTRY OF FOOD

Shri Satyanarayan Sinha (Bihar: General): Sir, I move:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve on the Standing Committee to advise on subjects with which the Ministry of Food is concerned, until the end of the next financial year *vice* Prof. Yeshwant Rai resigned."

Mr. Speaker: The question is:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to serve on the Standing Committee to advise on subjects with which the Ministry of Food is concerned, until the end of the next financial year *vice* Prof. Yeshwant Rai resigned."

The motion was adopted.

ELECTION TO COURT OF UNIVERSITY OF DELHI

Shri Satyanarayan Sinha (Bihar: General): Sir, I move:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to be a member of the Court of the University of Delhi, *vice* Dr. P. S. Deshmukh resigned."

Mr. Speaker: The question is:

"That this Assembly do proceed to elect, in such manner as the Honourable the Speaker may direct, one member to be a member of the Court of the University of Delhi, *vice* Dr. P. S. Deshmukh resigned."

The motion was adopted.

Shri M. S. Aney (Deccan and Madras States Group): May I ask you, Sir, if this is official work or non-official work?

Mr. Speaker: It is official work. The Honourable Member is authorised by the Minister.

I have to inform the Honourable Members that for the purpose of election of one member to the Standing Committee for the Ministry of Food and also to the Court of the University of Delhi, the Notice Office will remain open up to 3 p.m. to-day and that the election if necessary, will be held on Friday the 12th December, 1947. The elections by means of the single transferable vote will be held in the Assistant Secretary's room (No. 21) in the Council House, between the hours 10-30 A.M. and 1 P.M.

ELECTION OF MEMBERS TO ALL INDIA COUNCIL FOR TECHNICAL EDUCATION AND STANDING COMMITTEES FOR MINISTRIES OF INFORMATION AND BROADCASTING AND COMMERCE.

Mr. Speaker: I have to inform the Assembly that upto the time fixed for receiving nominations for the All India Council for Technical Education and the Standing Committees for the Ministries of Information and Broadcasting and Commerce, five nominations in the case of the first and one in the case of each of the second and third were received. As the number of candidates was thus equal to the number of vacancies in each of these Committees, I declare the following members to be duly elected:

The All India Council for Technical Education.—(1) Nawab Muhammad Ismail Khan, (2) Dr. P. S. Deshmukh, (3) Shri Biswanath Das, (4) Shri Sures. Chandra Majumdar, and (5) Prof. Yashwant Rai.

Standing Committee for the Ministry of Information and Broadcasting.—Pandit Balkrishna Sharma.

Standing Committee for the Ministry of Commerce.—Shri M. A. Srinivasan.

INDIAN COTTON CESS (AMENDMENT) BILL.

The Honourable Dr. Rajendra Prasad (Minister for Food and Agriculture):
Sir, I beg to move:

"That the Bill further to amend the Indian Cotton Cess Act, 1923, be taken into consideration."

The Bill is a very short and simple one. Under the Indian Cotton Cess Act, a cess of two annas per bale is levied on every bale of cotton which is exported from India or which is used in cotton mills, but the limitation at the present moment is that this cess can be levied only on cotton produced in India. Since the partition of the country, Pakistan now ceases to be part of India. Therefore, the cotton produced in Pakistan will not be subject to this cess, although the cotton may be used in Indian mills. This amendment is intended to make it liable to that cess. The money that is raised from this cess is used by the Central Cotton Committee in connection with research and improvement of cotton cultivation and cotton manufacture. Sir, I move.

Mr. Speaker: The question is:

"That the Bill further to amend the Indian Cotton Cess Act, 1923, be taken into consideration."

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. Rajendra Prasad: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

AJMER-MERWARA (EXTENSION OF LAWS) BILL

The Honourable Sardar Vallabhbhai Patel (Minister for Home, Information and Broadcasting and the States): Sir, I beg to move:

"That the Bill to provide for the extension of enactments to the Province of Ajmer-Merwara be taken into consideration."

The House is aware that the Province of Ajmer-Merwara is peculiarly situated, surrounded on almost all sides by Indian States territories. The size of this province is almost the size of an old British district. Now, in this province, there is no arrangement, for proper modern administration or any arrangement for passing any legislation. A similar province is the province of Delhi, with some differences as to the size and its surroundings. The Delhi Province also has no Legislative Assembly but it has the advantage of being situated near the capital, New Delhi and its administration is not therefore so detached or unaffected by modern trends of thought. In Ajmer-Merwara, however, the Administration is largely governed by rules and regulations which are very old and antiquated. So when we took charge, we thought that something should be done to bring its administration as far as possible to the level of the other provinces. But we found that it was very difficult to make any revolutionary changes which would be required to bring the administration to modern conditions. It would require a Legislative Assembly or Council and for that legislation will have to be passed here also. It would take much time and involve much labour. By that time the new constitution would be passed and then this question would solve itself. Therefore, I thought it better to bring into being some sort of Advisory Council.

We have set up Advisory Councils in both Delhi and Ajmer-Merwara. But in Delhi we have got the advantage of an enactment which authorizes us to apply the provisions of any law passed in any Provincial Assembly. Therefore

it is easy for us to bring this Administration of Delhi almost to the level of the adjoining Provinces of Punjab or the United Provinces, and we have in some manner applied the provisions of these acts from the adjoining Provinces recently. I may quote an instance. When I got representations from the Scheduled Castes people about the disabilities which they had to suffer in the Province of Delhi, we made use of this Act and extended the Scheduled Castes Disabilities Removal Act of Bombay to the Province of Delhi, in that way, we could easily set right or remove their difficulties. In Ajmer, unfortunately there is no such act in existence and therefore, for the short period till the passing of the new Constitution by the Constituent Assembly, it would be advantageous to have this power of extending the operation of the legislation of the adjoining Provinces. Therefore, I have come with this proposal to authorize Government to have this power to apply the legislation that have been passed in these Provinces, where the Provincial Assemblies have scrutinized by a popular House all such ameliorative measures. Any such ameliorative measure which it may be considered necessary to apply to this Province would be by notification. That would give relief to the people of Ajmer-Merwara during the interval and with this object I have come to this House. I do not think it is necessary for me to take any more time of the House. I hope that the House will help us in passing this legislation. I move the consideration of the Bill.

Mr. Speaker: Motion moved:

"That the Bill to provide for the extension of enactments to the Province of Ajmer-Merwara be taken into consideration."

Pandit Mukat Bihari Lal Bhargava (Ajmer-Merwara): I rise to give my wholehearted support to this motion. It is a very brief measure, Sir, but it is pregnant with possibilities of great benefit to the people of my province. As has been pointed by the Honourable Minister for Home Affairs, this unfortunate Province has been the greatest victim of British Imperialism. Its geographical and strategic position in the Centre of Rajputana and being surrounded on all sides by Indian States has been its greatest disadvantage. Ever since it was conquered by the British in 1818, it was transferred for administration to the North West Provinces, which is now known as the United Provinces of Agra and Oudh. It would have been better if it had remained so, but unfortunately owing to political reasons in 1871 it was dissected from the United Provinces and was transferred to the Political and Foreign Department of the Government of India and was placed under the administration of the Agent to the Governor-General, acting as *ex-officio* Chief Commissioner. Ever since 1871 and up to the present day, Sir, it has been administered on autocratic lines.

Now, Sir, in the year 1877 the Scheduled Districts Act of 1874 was extended to Ajmer-Merwara. Since that date it has come to be known as the non-regulated province. Therefore under this act all laws, regulations and orders have been promulgated in the name of the Governor-General in Council, but at the instance of the Agent to the Governor-General who acted as its *ex-officio* Chief Commissioner. In these rules, regulations and notifications, the public had never any voice and from time to time these notifications, rules and regulations have been promulgated in a haphazard manner. Some rules have been taken from this province and others from the other province and in fact the present state of the Province so far as the Provincial enactments are concerned is a state of perfect anarchy and chaos. Even in a Court of Law, sometimes the lawyer or even the judge is confounded as to whether this law will apply or that. The Constitutional Reforms that were introduced in the country as a whole, that is, the Morley-Minto Scheme in 1909 as also the Montagu-Chelmsford Scheme in 1919 left this Province untouched and the only benefit that was extended was the allotment of one seat in the Lower House of the Central Legislature. Since 1924 too, there was absolutely no improvement in the situation, as the Indian Legislature did not take any interest or had no time

[Pandit Mukat Behari Lal Bhargava]

to devote to this unfortunate Province. From 1st April 1937 when part III of the Government of India Act 1935, came into force, the Scheduled Districts Act stood automatically repealed and the administration of this Province was transferred to the Home Department of the Government of India. In the last 10 years, not a single piece of legislation concerning this province with the exception of the Delhi and Ajmer-Merwara Rent Control Act 1946, has been discussed or debated upon in the legislature and there is hardly any hope of distinct improvement, pending the decision of its fate by the Constituent Assembly.

In this connection, Sir, the Honourable the Home Minister was pleased to refer to the setting up of the Advisory Council and in fact for this there was a great public demand and the Government is to be congratulated for setting up this Advisory Council on the first occasion available. Constitutional difficulties stood in the way of giving Legislative powers to these Advisory Councils, but all the same they are representative bodies and they have taken upon themselves the question of the revision of law and they are busy going through suitable enactments in other Provinces. I hope, Sir, that the Central Government before extending any Provincial enactment to the Province of Ajmer-Merwara will surely consult the Advisory Council before taking any decision in the matter. It should be accepted as a matter of policy that no enactment or law should be enacted in Ajmer-Merwara till the Advisory Council has given its opinion on the point, and I hope there will be no difficulty in the matter. Sir, I support the motion.

Shri Deshbandhu Gupta (Delhi): Sir, I do not propose to take up much time of the House on this brief measure which was so badly needed. I hope the measure will be welcomed by the residents of the province to which it applies. I whole-heartedly support the point of view which my Honourable friend Pandit Bhargava brought forward in respect of the Advisory Council, and I have no doubt that the Honourable Minister who has been taking a kindly interest in this type of province will be pleased to assure the House that in future all enactments which will be extended to these two provinces will be so extended after consultation with the Advisory Councils which have been recently set-up by the Honourable Minister. There is a feeling in all these centrally governed areas that public opinion is not associated with the administration as it should be. There is no doubt that so far as Delhi is concerned the Honourable Minister is himself in charge of Home Affairs and takes so much interest in the administration that the interests of the public are safeguarded. All the same there are disadvantages which are well known to the Honourable Minister, and one particular disadvantage is that in matters which pertain to this province we have to approach different Ministries. I would make a suggestion to the Honourable Minister that so far as these two provinces are concerned, if he could find time to administer himself all matters pertaining to these provinces it will be a very great step forward. Take, for instance, the Improvement Trust of Delhi. If any suggestion has to be made it goes to the Health Ministry. All this takes a good deal of time; the same is the case with Works, Mines and other proposals. I suggest that if the Honourable Minister for Home Affairs could undertake to administer all the affairs concerning these centrally governed provinces, particularly Delhi and Ajmer-Merwara, it will simplify matters and it will be a very progressive step indeed. I have no doubt that the Honourable Minister will consider the advisability of adopting such a course and will also assure the House that the Advisory Councils which he has so kindly set up would be consulted in respect of all measures, whether they are borrowed from other provinces or whether they are sought to be enacted by the House, and that the views of the Advisory Councils will be given due weight and adopted. Sir, I support the Bill.

Mr. Speaker: The question is:

"That the Bill to provide for the extension of enactments to the Province of Ajmer-Merwara be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill

The Honourable Sardar Vallabhbhai Patel: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

SALARIES OF MINISTERS BILL

The Honourable Sardar Vallabhbhai Patel (Minister for Home, Information and Broadcasting and the States): Sir, I move:

"That the Bill to provide for the salaries of Ministers be taken into consideration."

I will not take much time of the House over this small matter. I may take the House into confidence and say that although this is a small matter it has taxed our minds considerably and we have spent a considerable time over it. We considered this question several times, we had two or three meetings of the Cabinet, and we had to reconsider proposals that we had once arrived at because any salary that you fix is liable to be criticised from one point of view or the other. But I may inform the House that looking at all the circumstances it may be said that the salary that we have proposed is not unreasonable. It will give an adequate amount for proper living in Delhi; in some cases after the deduction of income-tax some of my colleagues who have got other sources of income may have a little surplus and some will be out of pocket. So on the whole taking everything into consideration the amount cannot be considered to be unreasonable. As we have given a good deal of time and consideration to it I hope the House will pass it without any dissent.

In the matter of allowances it is not necessary to come to the House because it can be done by executive order or by a Cabinet decision, but we thought it better to put it to the House so that the House may know what the actual position is. The provision of double accommodation may require some explanation. I may inform the House that although we have provided for house accommodation here as well as in Simla there is surely no probability of any of us going to Simla. Houses there are all occupied by the East Punjab Government who are short of houses. Even if it were not so, we have no time or inclination to go to Simla because we think it unsuitable to conduct administration from those heights right down to the south. We cannot, therefore go there. It may of course be necessary for some Minister or other to go there occasionally on State business or for a short change of climate and reasons of health. In such cases the House will not grudge them such accommodation for a short or temporary period. But on the whole all the houses in Simla which belong to Government are now occupied. My Honourable colleague in charge of Works, Mines and Power will know more about it than I do; but I thought that the House should not carry a wrong impression on this question and feel that we are providing for double accommodation. In fact there will hardly be any case for any of us going to Simla. Sir, I move:

Mr. Speaker: Motion moved:

"That the Bill to provide for the salaries of Ministers be taken into consideration."

Shri H. V. Kamath (C.P. and Berar: General): Are not the Ministers in need of a conveyance or car allowance for which no provision seems to have been made in the Bill? I am just eliciting information.

The Honourable Sardar Vallabhbhai Patel: What does the honourable member say?

Mr. Speaker: There appears to be no provision for a car in this Bill!

The Honourable Sardar Vallabhbhai Patel: We have not provided for it deliberately.

Shri T. T. Krishnamachari (Madras: General): Clause 4—Residence of Ministers: I wonder if the Honourable Minister is aware that as the rules are at present, the rental value of the house will be taken into account for purposes of the compilation of income-tax. It may perhaps reduce the salaries a little further than what they have in mind if the rental value of the House is taken into account as part of the income.

The Honourable Sardar Vallabhbhai Patel: I am not aware of the rules of income-tax and how it works and how it applies. But all these points of view must have been taken into consideration because the Finance Member was also a party to it.

Shri H. V. Kamath: Does the Honourable the Home Minister's reply mean that their cars are not bought and maintained at the cost of Government?

The Honourable Sardar Vallabhbhai Patel: That is so. The cars are purchased and maintained by the Ministers on their own responsibility and cost.

Mr. R. K. Sidhwa (C.P. and Berar: General): All credit to the Government.

Mr Speaker: The question is:

"That the Bill to provide for the salaries of Ministers be taken into consideration."

The motion was adopted.

Clauses 2 to 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sardar Vallabhbhai Patel: Sir, I move:

"That the Bill be passed"

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted.

FEDERAL COURT (ENLARGEMENT OF JURISDICTION) BILL.

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, I move:

"That the Bill to provide for the enlargement of the appellate jurisdiction of the Federal Court in civil cases be taken into consideration."

The Federal Court as constituted under the Government of India Act as adapted, exercises three kinds of jurisdiction:

(a) Original jurisdiction under section 204:

(b) Appellate jurisdiction over High Courts under section 205; and

(c) Advisory jurisdiction under section 213.

The present Bill is concerned only with the Appellate jurisdiction of the Federal Court. As I said, the Appellate jurisdiction of the Federal Court under section 205 is a very limited jurisdiction. It is confined in the first place only to those cases in which the issue involved is the interpretation of the Constitution, that is to say, the interpretation of the Government of India Act 1935.

Secondly, this limited jurisdiction accrues to the Federal Court only if the High Court, after deciding a case before it gives a certificate to the effect that a question regarding the interpretation of the Constitution is involved.

It is only when these two conditions are satisfied, namely, that there exists an issue relating to the interpretation of the Constitution: and secondly, when the High Court has given a certificate that an appeal can go to the Federal Court under section 205.

The result of this limitation is this. All other appeals from the High Court in which questions relating to the interpretation of laws, other than the Constitution or those in which the interpretation of the Constitution is involved but where the High Court has not given a certificate, go directly to the Privy Council without the intervention of the Federal Court.

The object of this Bill is to prevent direct passage of appeals from the High Court to the Privy Council. In other words, the aim of the Bill is to make it compulsory that all civil appeals which arise from the judgment or decree of the High Court shall in the first instance go to the Federal Court.

The method adopted by the Bill to achieve this object is as follows:

What the Bill first does is to fix a day, which is the first of February, and which in the Bill is called "the appointed day". The next thing that the Bill does is after the appointed day no appeals shall go to the Privy Council directly from the High Court unless and until the appeal falls in a category of what is called "a pending appeal". If an appeal on the first day of February can be described within the terms of this Bill as "a pending appeal" then the appeal shall be continued to be heard and decided by the Privy Council. But if on that day the appeal is not "a pending appeal" within the definition of this Bill, then the jurisdiction of the Federal Court extends to such an appeal as the Federal Court gets a right to hear and decide such an appeal.

Section 7 of the Bill describes what is "a pending appeal". Now for this purpose a rough and ready made rule has been adopted in the Bill: The rule is this: that if the records of an appeal are transmitted by the High Court to the Privy Council on the appointed day or before the appointed day, then the appeal is a pending appeal and the Privy Council continues to exercise its jurisdiction to hear such an appeal, although it is a direct appeal.

If on the other hand the appeal is in such a state that the records have not been transmitted, then the appeal becomes automatically transferred so to say to the Federal Court and the Federal Court gets the right to hear the appeal.

Appeals to the Privy Council go in two different ways. They go under what are called the provisions of the Civil Procedure Code, Sections 109 and 110, which are called appeals by grants or they are appeals where the party have a right to appeal. In addition to that the Privy Council also has got the right to give special leave to appeal and when a party obtains special leave to appeal, such appeals also go to the Privy Council. Appeals which go to the Privy Council directly from the High Court on special leave being granted by the Privy Council, are also dealt with in Section 5 of the Bill. The provision there is this:

"Every application to His Majesty in Council for special leave to appeal from a judgment to which this Act applies remaining undisposed of immediately before the appointed day shall on that day stand transferred to the Federal Court by virtue of this Act."

If it is disposed of, that is to say, if it is rejected no further question arises.

If it is admitted then the Privy Council will be competent to deal with it. But if the Privy Council has not passed any order, then such an appeal shall be deemed to be transferred to the Federal Court and the Federal Court will have the right to dispose of the matter.

[Dr. B. R. Ambedkar]

I should like to tell the House in very concrete terms what this Bill does and what it does not do. I have told the House what this Bill does. I will tell the House now what this Bill does not do.

In the first place, it does not abolish appeals to the Privy Council in criminal matters. Criminal matters can still be entertained by the Privy Council from the Judgments of the High Courts. Secondly, it does not abolish appeals to the Privy Council from courts which are not high courts, that is to say, the courts of the Judicial Commissioner of Ajmer-Merwara or of Coorg. Thirdly, it does not abolish appeals to the Privy Council from the judgment of the Federal Court.

The House would probably like to know why these deficiencies have been retained in the Bill and why we have not been in a position to provide in this Bill for the complete transfer in all cases, criminal or civil, from the High Court to the Federal Court and from the Federal Court to the Privy Council. The reasons are to be found in certain limitations from which the Dominion Legislature, i.e., the Constituent Assembly (Legislative) suffers. As members of the Assembly would realise we are exercising the powers for enlarging the jurisdiction of the Federal Court, which are given to us by Section 206 of the Government of India Act. If Honourable Members would refer to Section 206 they will see that it is a sort of section which gives constituent powers to this Assembly enabling it to alter the provisions of section 205 of the Government of India Act, 1935. Section 206 says:

"(1) The Dominion Legislature may by Act provide that in such civil cases as may be specified in the Act an appeal shall lie to the Federal Court from a judgment, decree or final order of a High Court without any such certificate as aforesaid.

(2) If the Dominion Legislature makes such provision as is mentioned in the last preceding sub-section consequential provision may also be made by Act of the Dominion Legislature for the abolition in whole or in part of direct appeals in civil cases from High Courts to His Majesty in Council, either with or without special leave."

Sub-section (3) requires the sanction of the Governor-General.

Anybody who reads section 206 will find that although the power to amend and enlarge the jurisdiction of the Federal Court is given to this Assembly, it is limited in certain particulars. It is limited to civil cases. Therefore no provision can be made for the abolition of direct appeals in criminal matters. Secondly, it refers to direct appeals, that is to say appeals from the High Court to the Privy Council. The reason why we are not able to abolish appeals from the Federal Court to the Privy Council is because of the existence of Section 208 in the Government of India Act. Section 208 says: (a) that an appeal will lie to His Majesty in Council from a decision of the Federal Court, from any judgment of the Federal Court given in the exercise of its original jurisdiction in any dispute which concerns the interpretation of this Act and (b) in any other case, by leave of the Federal Court or of His Majesty in Council. What I wanted to tell the House was that if it was desirable to abolish all appeals to the Privy Council and to enlarge the jurisdiction of the Federal Court in as complete a manner as we want to do, for that purpose we would have been required to hold a session of the Constituent Assembly and ask the Constituent Assembly to pass a Bill, which it can do, notwithstanding any limitations in the Government of India Act 1935, for the simple reason that the Constituent Assembly is a sovereign body and is not bound by the provisions of the Government of India Act 1935. The position of this Legislature which is spoken of as the Dominion Legislature is very different. It is governed by the Government of India Act of 1935 and therefore it must conform in anything that it wants to do to such provisions of the Act which permit it to do what it wants to do. As I said, the only permissive section which we have in the Government of India Act is Section 206 and we have taken the fullest liberty of this section to enlarge the jurisdiction of the Federal Court to the

fullest extent possible. The deficiencies in the Bill I do not think need worry any members of the legislature for the simple reason that this Act will be in operation only for a very short time. As soon as our constitution is framed and is passed by the Constituent Assembly, we shall then be in a position to make the amplest provision for the jurisdiction of the Federal Court and to abolish appeals to the Privy Council. For the moment I think the House must be satisfied with what is done under Section 206. Sir, I move.

Mr. Speaker: Motion moved:

"That the Bill to provide for the enlargement of the appellate jurisdiction of the Federal Court in civil cases be taken into consideration."

Shri Alladi Krishnaswami Ayyar (Madras: General): Sir, In view of my state of health I request you to permit me to address the House sitting.

Mr. Speaker: The Honourable Member may do so.

Shri Alladi Krishnaswami Ayyar: Sir, in commending this Bill and in asking the House to give its support to it I should like to say a few words. In the Dominions, judicial autonomy has come in the wake of the independence of the legislatures and the executive from any interference from Whitehall. A good number of the Dominions has practically abolished the right of appeal to the Judicial Committee of the Privy Council and judicial autonomy is recognised as a fundamental principle even of Dominion Status. In Ireland appeals have been abolished both in civil and criminal matters, and a right to abolish the appeal has been upheld by the Judicial Committee. Quite recently in the Dominion of Canada the right of appeal in civil and criminal matters, including the right to special leave, has been abolished, and the Privy Council has held that the Dominion Legislature is within its rights in abolishing the appeal to the Privy Council altogether. It is thus clear that even in the Dominion stage it would be competent for India to abolish the right of appeal to the Privy Council. Apparently the Government are proceeding on the view that any provision involving a constitutional change even when India continues to be a Dominion must come before this Assembly in the sphere of its functions as a constitution-making body and the Government have thought it necessary to keep to the terms of the Independence Act in the light of the changes brought about by the Adaptation Orders of the Government of India Act. What I would lay stress on is that even as a Dominion it would be competent for this House, in one aspect or in another, to abolish the right of appeal to the Privy Council. But it would mean a certain change in the constitution of the Dominion because the Privy Council appeal is a part of the Dominion constitution. Therefore, if you want to abolish the appeal it would involve a change in the Dominion constitution. Under the terms of the Indian Independence Act it is competent even for the Dominion Legislature to pass an enactment repugnant to the provisions of the Independence Act, just as it is competent for the Dominion Legislature even to repeal the Independence Act. That is so far as the general aspect of the question is concerned. But anyhow the discussion is academic because it is only a question of time, and when the time comes we will be in a position to abolish the right of appeal to the Privy Council altogether.

There are a few minor points, however, which might merit the consideration of this House and of the Honourable the Law Member. Under the Government of India Act, as adapted, the appellant has to found his right of appeal in constitutional matters on Section 205 and to seek the leave of the court which passes the decree or the judgment. Under that section, as it stands, it will be noticed that if the High Court refuses leave, there is no provision for seeking the leave of the Federal Court. When an appeal is filed under the terms of the Bill now before the House, in cases where the valuation exceeds Rs. 10,000, a constitutional question may conceivably arise along with other grounds of appeal. Section 2 (b) of the Bill read with section 8 (a) provides that an appeal

[Shri Alladi Krishnaswami Ayyar]

lies from a judgment in which an appeal would have been brought to His Majesty if this Act had not been passed. On a proper construction of section 205 the Privy Council has ruled that in an appeal to the Judicial Committee no constitutional point can be raised unless in the first instance the jurisdiction of the Federal Court has been invoked under section 205. If, therefore, a right of appeal to the Federal Court is to be limited to cases in which a direct appeal would have been brought to His Majesty, the clause might have the effect of precluding the Federal Court from going into any constitutional question if the procedure under section 205 has not been invoked or has been invoked and leave refused. That could not obviously be the intention of the framers of the Bill. Suppose the valuation and other tests are satisfied and if an appeal is lodged, the whole case is before the Court; then constitutional questions might arise, ordinary questions of law might arise, and the whole matter must be in a position to be taken up by the Federal Court. I may presume that it is of the value of over Rs. 10,000, that it otherwise satisfies the tests, that it is a reversing judgment or that it raises a substantial question of law and so on. Supposing it is so, then a question of constitutional interpretation arises before the Federal Court. What would be the effect then of the previous section which says that in all constitutional matters you must first get leave of the High Court, and that is the final arbiter under the Act, as it stands, whether leave is to be granted or not. I would therefore suggest to the Honourable the Law Member the adoption by the House of a Proviso to section 3 (a) (i) permitting an appeal to the following effect, namely:

"Provided that notwithstanding the fact that no application has been made under the terms of section 205 or an application has been made and rejected by the High Court which decides the case, it shall be open to the appellant or the respondent to raise any question of law as to the interpretation of the Government of India Act or any Order in Council made thereunder before the date of the establishment of the Dominion, or any Order made thereunder on or after the date, or as to the interpretation of the Indian Independence Act, 1947 or of any Order made thereunder."

I have in fact given notice of an amendment and if the House gives me leave and if the Honourable the Law Member is disposed to consider it I shall move it. Otherwise I am not going to press it. The amendment I am suggesting may roughly run as follows:

"That to clause 3(a) (i) of the Bill the following proviso be added, namely:

"Provided that where an appeal has been preferred under this sub-section it shall be competent to any of the parties notwithstanding anything contained in section 205 of the Government of India Act to raise any of the questions of the kind specified in this section."

The present position, even as it is, is very unsatisfactory. A case involves constitutional points. It goes up before the Federal Court. The whole appeal is opened. I am therefore very glad that this Bill has been brought forward. But at the same time it ought to be made quite clear that when an appeal is lodged in the exercise of the general right of appeal with the litigant, under the Bill it ought to be open to the litigant to raise every ground that is possible to be raised in support of the appeal, and if it is a case of a respondent the appellant must be in a position to challenge the judgment of the High Court if really it is open to challenge, on a constitutional ground. Otherwise the Federal Court would be placed in a very very difficult position. An obvious question of constitutional law or constitutional interpretation might arise in the case of an appeal, and the court will have to state "This appeal is before us, but the first court has refused leave under section 205 in regard to the constitutional point; and notwithstanding the fact that the whole appeal is before us we are powerless to interfere with it." I would only appeal to the Honourable the Law Minister to consider the advisability of inserting a proviso of this type when the time comes.

With these few words I have great pleasure in supporting the motion before the House of the Honourable the Minister for Law. •

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, such a measure has been long overdue. Soon after I came to this Assembly in the year 1935 or 1936 when Sir N. N. Sircar was the Law Member, I moved that steps should be taken immediately under section 206 to abolish the jurisdiction of the Privy Council in civil appeals and confer that jurisdiction on the Federal Court. He took up my suggestion and sent it round for opinion to the various High Courts. Later on when I went to my own province I was disappointed to hear one or two Judges tell me that we were not yet fit to invest the Federal Court of India with jurisdiction in civil appeals in place of the Privy Council and that they had greater faith in the Privy Council's decisions. They must have been born a hundred years earlier. I was certainly surprised. Similarly some other persons also who were of a conservative nature from some other High Courts were of the same opinion. They had greater faith in foreigners who were whiter still! Later on in the previous Assembly a resolution was tabled about three years ago by a previous Law Member who also hailed from Bengal. He proposed that concurrent jurisdiction may be given. Whoever wanted to prefer an appeal to the Privy Council may do so; others who wanted to do so, may prefer an appeal to the Federal Court. But later on we wanted that the entire jurisdiction of the Privy Council should be abolished and he himself did not press that matter. We are still struggling on. The final stage will come when the Constitution Act is framed whereby the jurisdiction of the Privy Council is totally abolished. We do not have appellate criminal jurisdiction which the Privy Council may have in particular cases. Therefore we are not yet free. That freedom will be attained only when the Constitution Act is framed. We cannot wait for long. Appeals are being filed every day against the decisions of various High Courts to the Privy Council. The sooner those appeals are abolished, the jurisdiction of the Privy Council is abolished with respect to those appeals and it is made easy for litigants to take up these matters to the Federal Court, the better. I congratulate the Honourable the Law Minister and I thank him for having introduced this measure. I have tabled an amendment. The measure even in its limited form is not complete. He gives jurisdiction to the Federal Court with respect to appeals which may be filed and have yet to be filed with respect to which leave is given or still has to be given. He has not tackled the problem of appeals already filed but which have not yet been heard or have only been partly heard. I have tabled an amendment and I am sure he will accept the amendment whereby provision is made for any party to a pending appeal before the Privy Council to move the Federal Court for withdrawing such an appeal in case it is not part heard and in case advance is not made or the other party is not in enormous loss, and if this loss cannot be mitigated, it can be mitigated by some compensation. Under these restricted conditions any party to an appeal may apply to the Federal Court for withdrawing the appeal to the Privy Council. •

Sir, I heartily support the motion for consideration of this Bill.

Shrimati G. Durgabai (Madras: General): Mr. Speaker, Sir, I would like with great pleasure to congratulate the Honourable the Mover of this Bill. Sir, this is a measure which is of somewhat historic importance because this is in a way stopping the flow of appeals further to the Privy Council and thus settling our own matters, which are matters of our own importance, instead of their being settled by the body abroad. Sir, there are several questions which are very special to Indians, such as the Hindu law of adoption or such other matters which are of very great importance and which only the Indian mind can understand. Such matters were hitherto settled by people abroad.

[Shrimati G. Durgabai]

who have neither the necessary knowledge nor equipment of problems relating to ourselves in India. Therefore it is a measure which I say, Sir, is of great historic importance. The Bill as I see it, and as appears to be the object of the mover of the Bill, is to stop the further flow of appeals going abroad and also gradually to abolish in due course all appeals going to that body. I have examined carefully the provisions of this Bill, Sir, but I have found that the Bill is defective in one or two respects. His anxiety seems to be to stop the flow of as many classes of appeals as possible going to that body, and while giving the definition of a pending appeal, he said the test is the transmission of records to that body. Now in this class of cases there are three categories which have come under the benefit of the provisions of this Bill. One class is the class of cases where special leave has not been required by the Privy Council and also where special leave is granted by the Federal Court. Also the Bill envisages a class of cases where special leave is not required but where cases are already pending before the Privy Council. Such are the classes of cases which are deemed to be coming to the Federal Court as envisaged by this Bill. But, Sir, I would say that there is yet another class of cases where special leave is granted but where records in that case are not sent to the Privy Council. If his object is only to allow such appeals to be disposed of by the Privy Council where the records are sent and where the sending of records is the test for cases to be disposed of by the Privy Council, I would ask in such class of cases where special leave is granted but where the records are not sent, why should such class of cases be disposed of by that body. Why should not that special leave be deemed to be special leave given by the Federal Court? So I would appeal to the Honourable the Mover of this Bill to consider that class of cases also where special leave is granted but where records are not sent. Then it may be argued by the Honourable the Mover that already for special leave to be obtained, some records have been sent, therefore let such class of cases be there pending and be disposed off. But I may say this, that the huge expenditure involved in the disposal of such cases is only for obtaining special leave. Only some amount must have been spent. But when we admit that the special leave is obtained for final disposal, a lot of time is involved, a lot of expenditure will be involved, and the main records will have to be sent. To save all that, the class of cases where only leave is granted and records are sent, such class of cases may be permitted to come under the provisions of this Act. Therefore I would appeal to the Honourable the Mover to accept the amendment of which I have given notice to this effect, and consider this matter favourably.

There is another matter to which I would like to refer. Of course he has dealt when he was moving the Bill with criminal cases. The Bill is silent on that. It only applies to civil cases. But I hope that very soon he would bring another Bill to give the necessary effect. I am really disappointed to see that criminal cases are not covered.

And the third point is—there is some confusion in my mind about this—that the point of limitation has not been dealt with. Now, I would only ask: What happens to such cases between now and the 1st of February, that is the appointed date? Those cases where special leave has got to be obtained and for which the period of limitation will already have expired in the interval, should such class of cases also go to the Privy Council even after we have passed this Act? Of course it is left to the mercy of the High Court; the High Court may not send the records; but it is left to the mercy of the High Court not to send the records. So why not we make a suitable provision also with regard to that?

Therefore, I would ask the Honourable Mover to consider these three points, namely the special class of cases where leave is granted but records

have not been sent; the question of limitation; and thirdly, the question of criminal cases to be covered by this Act. With these few words, Sir, I would congratulate the Honourable Mover for having brought forward this measure.

Shri M. S. Aney (Deccan and Madras States Group): Sir, I do not want to make a long speech, but it will be admitted by all that the Bill which the Honourable the Minister for Law has just moved meets a demand that was being made in the country for a very long time. The Act of 1935 did provide for the enlargement of the powers of the Federal Court; but in spite of attempts made by some of my Honourable friends to move the Government in the matter, things did not succeed; and I am therefore very glad to say that the Honourable Dr. Ambedkar has taken the first opportunity of coming with a Bill to enlarge those powers, which could be done under the Government of India Act of 1935 as adapted by the Ordinance of 1947. It means a good deal of relief to the litigant world which for want of means could not go and appeal to the Privy Council or which had to go to the Privy Council at a cost sometimes prohibitive; we know of cases in which Privy Council appeals have been won only to find that those who have ultimately won had no means to get their decree executed.

Sir, in his speech while introducing the Bill, Dr. Ambedkar has very lucidly pointed out the limitations under which he had to enlarge those powers. The relevant sections of the Government of India Act lay down that the powers could be enlarged only in a particular way and in particular cases, that is civil cases only; and the criminal jurisdiction had to be left out. This indicates that although on the 15th of August we have got autonomy, we have still a Legislature which has not got all the powers of a Sovereign Legislature—it is suffering from certain limitations. We have yet to wait for the day when we shall not only have a Sovereign State but a full Sovereign Legislature as it should be. Here in the present Bill there is still ground for a man aggrieved by the judgment of the Federal Court, to go and appeal to the Privy Council. So long as that provision is there, the Indian Dominion stands on a different footing from other Dominions. May-be the view which has been very lucidly explained to us by our Honourable friend Sir Alladi may be correct, and if that is the position we may be in a position to bring in an appropriate amending Bill and to assert our right in that way. But so far as it has been explained to us by the Honourable the Law Minister, it seems to me very clear that till we have framed a Constitution and got a Legislature under it, we shall probably suffer under those limitations.

Anyhow, I am very glad, Sir, that this Bill has been brought forward by the Honourable Minister. Much of the difficulties of the litigant world who were suffering, will hereafter disappear. We shall have, so to say, a Federal Court with appellate powers—such appellate powers as have been given to it by this Act—and which in a very short time will develop into a full-fledged Federal Court, and there will be no necessity for the Indian public to go to the Privy Council. I congratulate the Honourable Minister for having done that; I am sure the House will accord its full support to the Bill.

Pandit Mukut Bihari Lal Bhargava (Ajmer-Merwara): Sir, I rise to accord my full and hearty support to this measure, specially as it is a milestone towards the abolition of our slavery in the real sense. I call it a milestone, Sir, because even after the passing of this Bill into an Act, there will still be the appellate jurisdiction of the Privy Council in certain matters, and particularly in criminal cases. While conceding the proposition that has been enunciated by the Honourable the Law Minister that there are certain limitations on the Constituent Assembly while acting as the Legislature as distinct from its Sovereign character as the Constitution-making Body, still within the framework of the Government of India Act, 1935, it was open to the Law Minister to provide for the abolition of appeal to the Privy Council from the

[Pandit Mukut Bihari Lal Bhargava]

Court of the Judicial Commissioner, Ajmer-Merwara. In fact, Sir, in all judicial matters we have to look for uniformity, and it will sound ridiculous and it will be a great anomaly if the appellate jurisdiction of the Privy Council from one single court or from the courts of the Judicial Commissioners of Ajmer-Merwara is kept alive.

In fact, Sir, this appeal to the Privy Council involves an enormous strain of money on the litigating public and the litigating public in a part of the country like Ajmer-Merwara, which is very poor, find the strain enormous. Consequently, the Law Minister ought to have seen some way by which the appellate jurisdiction of the Privy Council from the Court of the Judicial Commissioner could be brought to an end. It has been contended, Sir, that it was not open to him because the Court of the Judicial Commissioner is not a High Court within the meaning or within the purview of Section 206 of the Government of India Act; but I would respectfully invite the attention of the Honourable the Law Minister to the provisions of Section 219 of the Government of India Act which lays down what are the "High Courts" for the purpose of the Government of India Act. I would draw his attention particularly to the last three lines in Section 219, which lays down "any other comparable court in India which the Act of an appropriate legislature may declare to be a High Court for the purposes of this Act." Under this specific provision, it was open to the Law Minister to treat this court of the Judicial Commissioner of Ajmer as a comparable court in India because its jurisdiction is that of any High Court and it is the final court of civil jurisdiction in the Province, and from it appeal lies only to the Privy Council. Therefore, Sir, treating it as a comparable court in India, because like any other part of the country, this Dominion Parliament is the appropriate legislature and by this very enactment the court of the Judicial Commissioner could be treated as the High Court within the meaning of Section 219 and thereby to abolish the appellate jurisdiction of the Privy Council. I have tabled amendments on this point and I would urge upon the Honourable the Law Minister to give his careful consideration to them and to end the appellate jurisdiction of the Privy Council.

Shri K. Santhanam (Madras: General): Sir, I want to make a simple point which has not been made by the other speakers. The whole plan of the Bill seems to suggest that the procedure for amending Sections 206, 207 and 208 of the Government of India Act is different from making an ordinary law in the legislature. I think the idea is there that in order to amend any section of the Government of India Act, you have to sit in a different place in a different manner and adopt some different procedure. I have tried to look through the Sections of the Government of India Act, the Indian Independence Act and the Rules of Procedure of the constitution-making Section and the legislative Section. But I do not find any warrant whatsoever for the idea mentioned above. I think, as the constitution stands now, a constitutional change and law making are entirely on the same plane and therefore, in the same manner in which the present Bill is introduced, Sections 206, 207 and 208 could have been changed by an ordinary Bill to abolish the criminal and civil appeals to the Privy Council by simply substituting three different Sections.

In this connection, Sir, I would refer to Section 18 of the Government of India Act, 1935, as adapted. It says:—

"The powers of the Dominion Legislature under this Act shall, until other provision is made by or in accordance with a law made by the Constituent Assembly under subsection (1) of Section 8 of the Indian Independence Act, 1947, be exercisable by that Assembly."

Now Section 8 (1) of the Indian Independence Act simply says:

"In the case of each of the new Dominions, the powers of the Legislature of the Dominion shall, for the purpose of making provision as to the constitution of the Dominion, be exercisable in the first instance by the Constituent Assembly of that Dominion, and references in this Act to the Legislature of the Dominion shall be construed accordingly."

Sir, if you refer to Section 6 of the Indian Independence Act, the powers of the Legislature, which is the Constituent Assembly for the present time, are unlimited. Therefore, I do not see that there is any justification for thinking that a different procedure has to be adopted for changing the Government of India Act from ordinary legislation.

My argument is also reinforced by the fact that if you take the rules of the Constituent Assembly in the constitution-making side, there is no provision whatsoever for bringing in any Bill to change the Sections of the Government of India Act. Now, it is admitted that this Assembly has power to change the Government of India Act. But where is the procedure? Thus if we are not to use the ordinary rules of this legislature, there is no way at all of changing the Government of India Act. We cannot have any legislation on the constitution-making side. We can have legislation only here. Therefore, I think the Honourable the Law Minister could have brought in an amending Bill, amending Sections 206, 207 and 208, and that would have done away with all complications. It would have done away with all kinds of appeals, second appeals or indirect appeals, from the Federal Court and we could have taken criminal jurisdiction of the Privy Council. The whole thing would have been simplified. There is at present some legal mystification which is causing unnecessary confusion in what is plain. That is the only point I wanted to make.

Dr. Bakshi Tek Chand (East Punjab: General): Mr. Speaker, Sir, I had no intention of speaking on this Bill today, for like most other members of the House I fully endorse the principle underlying the Bill and I join with them in congratulating the Honourable the Law Minister for bringing forward this measure, which has been long overdue. There are however two or three points, brought out by previous speakers, in regard to which I wish to make a few observations.

The first point which requires the consideration of the House is with regard to cases decided by the Judicial Commissioner of Coorg and Ajmer-Merwara. I fully sympathise with the views expressed by my Honourable friend opposite that there is no reason why appeals in civil cases to the Privy Council should continue from these two small parts of India while in regard to all other Provinces like Bombay, West Bengal, Madras, East Punjab and U.P. and the rest the same has been abolished. As far as I could see, the reason why the word "High Court" given in Section 219 of the Government of India has not been sought to be amended by the Honourable the Law Minister so as to include the Judicial Commissioners' courts of these Chief Commissioners' provinces is that, very probably, it may necessitate various consequential changes in regard to appointment, qualifications and salaries of judges, etc. But I would submit that it is not necessary to amend the definition of "High Court" in Section 219. All that would be necessary is in clause 2 (b) to say: "Judgment to which this Act applies means any judgment, decree or final order of a High Court or of Judicial Commissioners of Ajmer and Coorg." If you add those words, you steer clear of the necessity of amending Section 219. On the merits, I believe, the Honourable the Law Minister will agree that there is no reason why appeals from Ajmer and Coorg should lie to the Privy Council, while those in much bigger and more complicated cases which come from the other Provinces should go to the Federal Court. I would, therefore, ask the Honourable the Law Minister to agree to this amendment in section 2 (b) which will make the law uniform for the whole of the country, including the Chief Commissioners' Provinces and would also obviate the necessity of amending Section 219.

[Dr. Bakhshi Tek Chand]

It has not been possible for most of us, and certainly not for me, to send formal amendments because I received the copy of the Bill only yesterday and my first impulse this morning was to ask you, Sir, to disallow the motion for taking the Bill into consideration as three days' notice had not been given. But I felt that the principle of the Bill and, on the whole, the drafting of the Bill was such as would commend itself to the whole House and as the time is short and the House is going to break off tomorrow and will not meet until some time in the end of January or beginning of February, it was not advisable to raise that objection. At the same time, I would ask you, Sir, to allow these small amendments to be moved without formal notice and, further, hope that the Honourable the Law Minister would himself accept the force of this amendment and one or two other amendments which may be moved before the House.

The other point to which I wish to refer is the one to which reference has been made by Sir Alladi Krishnaswami Ayyar in his speech while supporting the Bill, and that is that there is an obvious conflict between Section 205 as to the right of appeal to the Federal Court on certain points and the provisions of the present Bill. As pointed out by my Honourable friend, Sir Alladi Krishnaswami Ayyar, under the existing law Section 205 of the Government of India Act prevents the Federal Court from entertaining an appeal on a substantial question relating to the interpretation of the Government of India Act unless a certificate has been given by the High Court. There might be cases in which the value of the case is over 10,000 rupees and the case satisfies all the requirements of Sections 109 and 110 of the Civil Procedure Code. The appeal, therefore, would lie to the Federal Court as of right. But if, in addition to ordinary questions of law, if a question of the interpretation of the Government of India Act is involved, and the High Court either has not been moved to grant a certificate or, if moved, has refused to grant a certificate, then the Federal Court will be competent under the provisions of this Bill, to entertain the appeal on all other points, but it may be barred to hear and decide questions for which the Federal Court was originally established, namely the question of the interpretation of the Government of India Act. The best course in the circumstances would be to accept an amendment like the one suggested by Sir Alladi at the close of his speech and to incorporate it in the Bill and, to put an end to any dispute as to the jurisdiction of the Federal Court to hear and adjudicate such questions without a certificate. I would, therefore, commend to the Honourable the Law Minister the suggestion of Sir Alladi Krishnaswami Ayyar to incorporate an amendment to that effect.

The third, point to which I wish to make a passing reference, is the one to which some Honourable Members have referred, relating to "criminal appeals" to the Privy Council. It has been suggested that the Honourable the Law Minister should have included in the Bill a provision for the transfer of the "criminal appeals" from the Privy Council to the Federal Court and to bar the Privy Council from hearing such "criminal appeals". With great respect to the Honourable Members, I think there is some confusion on this point. Under the existing law, no appeal in criminal cases lies with the Privy Council; the Criminal Procedure Code makes no such provision; the Letters Patent of the High Courts contain no such provision and there is no other law, which allows a litigant to have recourse as of right, to the Privy Council in criminal matters. What are loosely called "criminal appeals to the Privy Council" are merely cases in which the Privy Council, acting on behalf of His Majesty, grant special leave to appeal. It is only by special leave, which is really an exercise of the prerogative of His Majesty, that the Privy Council has got the power to deal with criminal cases. Now, I do not see how, so long as we are a Dominion, the Honourable the Law Minister can make any provision in this Bill to transfer the prerogative of His Majesty to the Federal Court. If it is intended to give

the Federal Court power to deal with criminal matters, a new Bill will have to be brought either in this Assembly or in the Constituent Assembly, as the case may be, to confer special jurisdiction on the Federal Court to hear appeals in certain cases. That is a matter of considerable importance which ought not and could not have been included in a Bill of this kind, because you cannot allow an unrestricted right of appeal in every criminal case to the Federal Court; you will have to restrict it to certain cases only. I, therefore, do not see the relevancy of the objection raised with regard to the transferring of criminal jurisdiction on the Federal Court relating to matters which might arise from decisions given by the various High Courts in criminal cases in India. Further, I do not think any great harm will be done to an "aggrieved person" if this matter is delayed for 3 or 6 months. After all, the new Constitution is likely to come into force, by October at the latest and in the meantime, while the Federal Court will not deal with ordinary criminal cases, the right of the Privy Council to grant special leave will remain intact. Therefore, an accused person who has been convicted by a High Court will have this satisfaction that until the Dominion Legislature or the Constituent Assembly has conferred the power on the Federal Court to entertain criminal appeals in certain cases, he has the right to move the Privy Council for grant of special leave in appropriate cases. I suggest, therefore, that this question relating to the jurisdiction of criminal appeals may very well be dropped.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, I rise wholeheartedly to support the principles of this Bill. We are going in due course and in the fullness of time to have a full-fledged Supreme Court which
 1 P M. will really be supreme in all legal matters; but the House feels that the Bill does not go far enough. The reason is that there is a fear that some of the sections of the Government of India Act will stand in the way. There is also a view taken in this House that this House is not a sovereign legislature and the other House which is called a House for constitution making is supreme. The only distinction that I see between the two Houses is that this House sits in one room and the other House sits in another room, and while the other House has a President this House has a Speaker who are different persons. The members of both Houses are the same. This artificial distinction has been brought about for certain practical and administrative reasons. The distinction does not exist in the Indian Independence Act and must be rejected. I therefore fail to see how on account of these trivial and minute distinctions, which I do not consider to be relevant, the House loses the character of a sovereign body and shape our law in any way it thinks fit. Sir, Parliament has absolutely washed its hands of any further legislation relating to India. They say, "We are not going to make any further laws for India". On the other hand, we hold that this House is not sovereign and cannot pass certain kinds of legislation. We are thus in a state of *vacuo* and, as in the case of the Extra-Provincial Jurisdiction Bill, in a case of a *vacuo* we should intervene. I hope the House will agree with me that this House is identical with the House from which it is sought to be artificially distinguished. I hope this point will be carefully considered, and if necessary an amending Bill should be brought in. And if the Honourable Law Minister agrees with the suggestion by Shri Alladi Krishna-swami Ayyar we can proceed with the amendments straightaway.

The Honourable Dr. B. R. Ambedkar: Sir, I am grateful to the House for having expressed its general satisfaction with this Bill. I will therefore deal only with certain points of criticism which have been raised by certain Honourable Members who have taken part in this debate. The first point of criticism relates to what I might call a timidity for my not going the whole hog and abolishing appeals to the Privy Council and conferring the fullest jurisdiction on the Federal Court. I am told that I am making a sort of artificial distinction between this legislature and the Constituent Assembly and that I am

[Dr. B. R. Ambedkar]

for no reason limiting the powers of this House. I am sure that that is a criticism which, to put it mildly, is certainly far from valid. I cannot accept the proposition that this legislature as distinguished from the Constituent Assembly is a completely sovereign body, as complete as the Constituent Assembly itself. It is true that the same Members who sit in this House sit in the Constituent Assembly, so that in regard to the personnel there is no distinction. But I have not the slightest doubt in my mind that so far as functions are concerned the two Assemblies are quite different. The function of the Constituent Assembly is to make the constitution and in making that constitution it is bound by nothing except by its own vote. So far as this Assembly is concerned, it is bound by the Government of India Act, 1935; that is the constitution which is binding upon this legislature. Except the British Parliament which has both sorts of powers, namely, ordinary legislative powers as well as constituent powers, I do not know of any Assembly anywhere which has got a written constitution which possesses powers to override a constitution which has created that particular legislature. I therefore submit that I am on perfectly strong and stable footing when I say that in carrying out the provisions of this Bill we must be bound by the limitations that have been imposed upon this legislature by the Government of India Act, 1935 as adapted.

I will now turn to the other criticism expression to which was given by my Honourable friend Shri Alladi Krishnaswami Ayyar. With regard to his amendment I do not want to say that I regret that the amendment is something which I could not accept. All that I want to say is that according to my reading of the situation that amendment is probably unnecessary, and I will explain to him why I take that point of view. The ground that he urged for the amendment was that the Privy Council in a certain case decided in 1940 (as reported in the Punjab Co-operative Bank *versus* Commissioner of Income-Tax) stated, according to him, that they would not entertain any point relating to the consideration of the constitution if the High Court had not given a certificate; therefore the Privy Council said that they would have to send that case back to the High Court for a certificate. His argument was that the decision of the Privy Council in this case may also be accepted by the Federal Court as binding upon itself; and therefore wherever there was no certificate given and the matter came up before the Privy Council—and as a matter of fact it was found that a question relating to the constitution did arise—the Privy Council would find itself unable to deal with that appeal. I think that was the sum and substance of his argument. Now what I would like to point out is that I think he has read a little more into the judgment of the Privy Council than it really says. I will read a few lines from the judgment. They have laid down three propositions which they say would arise in the consideration of section 205. The second proposition is the only one which is relevant to our purpose.

“Secondly, if in the absence of a certificate it appears to the Board on an appeal that there is ground for thinking that that is a matter for the consideration of the High Court and that they ought to have given or ought to have withheld the certificate, the Board ought to decline to hear an appeal until the High Court had had an opportunity of doing one or the other.”

That is what the Privy Council have laid down. Now my submission is that this matter was as a matter of fact considered by the department when this Bill was drafted, and it was felt that after all in the observations made by the Privy Council they have not said that they do not possess jurisdiction in a case of this kind. All that they have done is to lay down a sort of rule of prudence that if a case came in for which there was no certificate they would not deal with it directly—not they had no power to deal with it—but would send the case back to the High Court. Therefore it does not mean that the Federal Court which under our Bill would be inheriting the jurisdiction of the

Privy Council would have no jurisdiction because the Privy Council has laid down no such rule at all.

My second submission is that assuming that the Privy Council's dictum does go to the question of jurisdiction, is it necessary for us to presume that the Federal Court in exercising a new jurisdiction which we are giving to it would accept what has been laid down by the Privy Council? The Federal Court would be free to give its own interpretation. It may say that notwithstanding that that certificate was not given, we shall entertain the question and decide it.

Thirdly, the Privy Council has also got the power to give special leave and they may give special leave and get over the difficulty. What I am trying to do is to explain to the House that we did not incorporate the sort of provision which my Honourable friend Mr. Alladi Krishnaswami has tabled in his amendment. But if eminent lawyers in this House think that we ought not to leave this question in doubt, and I find that he is supported by my friend, Bakshi Tek Chand, I myself would raise no objection to the amendment if they insist that the amendment should be introduced in the Bill.

Then the question was raised with regard to the Courts of the Judicial Commissioners of Ajmer-Merwara and Coorg. It is quite true that it would be very anomalous that we should stop direct appeals from the High Court to the Privy Council and allow appeals from Judicial Commissioners to go to the Privy Council without the intervention of the Federal Court. The anomaly is patent and nobody can deny it. But the question is this: that unless and until we declare the Courts of the Judicial Commissioners as High Courts, we could not make this Bill binding upon them. Now I am told that the question of the declaration of the Judicial Commissioners' Courts as High Courts would involve certain administrative problems. For instance, all the provisions in the Government of India Act relating to High Courts would have to be applied to the Judicial Commissioners before they become High Courts. It seemed to me that that might create complications and that is the principal reason why we did not think it advisable at this stage to extend the provisions of this Act to the Judicial Commissioners. After all, as I said, this Bill will be of a temporary duration. It may not be in operation for more than two or three months, and I do not think that within these two or three months any very large number of appeals from the Courts of the Judicial Commissioners are likely to come to the Privy Council.

Therefore, I submit, rather than face the difficulties that may arise out of administrative considerations, it might be better for this House to suffer the anomaly and let the position stand as it is.

With regard to the question of criminal appeals that matter has been fairly disposed of by my friend who spoke before me, and therefore I do not think it necessary for me to touch upon that matter at all.

Mr. Speaker: I might just state what I was feeling about the amendment. In case the Honourable Law Minister is inclined to accept it, isn't it likely that an objection might be raised about the competence of this Legislature, inasmuch as the amendment uses the words "notwithstanding anything contained in section 205 of the Government of India Act"?

The Honourable Dr. B. R. Ambedkar: That also is a point.

Mr. Speaker: So that will also have to be considered. The House will be rising and in the recess the Law Minister may consider this point.

The Honourable Dr. B. R. Ambedkar: Yes, I will consider it.

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

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

Mr. Speaker: The question is:

"That the Bill to provide for the enlargement of the appellate jurisdiction of the Federal Court in civil cases be taken into consideration."

The motion was adopted.

Clause 2 was added to the Bill.

The Honourable Dr. B. R. Ambedkar: Sir, with regard to clause 3 I would like to move an amendment. I move:

"That in clause 3—

(1) The word 'and' at the end of sub-clause (a) (ii) be omitted;

(2) The following be inserted as sub-clause (b):

'(b) in any such appeal as aforesaid, it shall be competent for the Federal Court to consider any question of the nature mentioned in sub-section (1) of Section 205 of the Government of India Act, 1935; and

(3) The existing sub-clause (b) be re-lettered as sub-clause (c)."

Mr. Speaker: I suppose this is an agreed amendment

The Honourable Dr. B. R. Ambedkar: Yes, Sir.

Mr. Speaker: Amendment moved:

"That in clause 3—

(1) The word 'and' at the end of sub-clause (a) (ii) be omitted;

(2) The following be inserted as sub-clause (b):

'(b) in any such appeal as aforesaid, it shall be competent for the Federal Court to consider any question of the nature mentioned in sub-section (1) of Section 205 of the Government of India Act, 1935; and

(3) The existing sub-clause (b) be re-lettered as sub-clause (c)."

Shri K. Santhanam: This amendment requires only one remark. As you pointed out, this does modify Section 205 and I am glad to know that between the two lawyers, the Law Minister and the greatest lawyer in this Assembly, they have decided to make a change in the constitution, though they considered it apparently illegal to do so.

Mr. Speaker: There seems to be some misapprehension. Instead of using the words "Notwithstanding anything contained in section 205" the amendment repeats what is contained in the Government of India Act, Section 205.

Mr. Nasiruddin Ahmad: Sir, I submit that this legislature has full power to make law. This subterranean arrangement of compromises and half-hearted drafts are not necessary. In Section 8 of the Indian Independence Act sub-section 2 it is said that the Government of India Act may be adapted by the Governor-General. He can adapt, modify or even supersede the Government of India Act. Sub-section 2, proviso (e) says that the functions of the Indian Legislature shall be exercisable by the Constituent Assembly in addition to the power of making the constitution. If we sit as an Assembly on the legislative side, even assuming it to be a different body, this proviso gives the power to this Assembly.

There is one very important provision in Section 9, which empowers the Governor-General to make adaptations. Section 9, clause (5) which makes provision for additions to, adaptations or modifications to the Government of India Act, prescribes no limitation upon the Governor-General. I asked the Honourable Law Minister in the last session of the Constituent Assembly whether the Governor-General's power were exhausted by the first adaptation. He replied that his powers were exhausted. I ask the attention of this House to sub-section (5), which empowers the Governors to make adaptations to the

provincial constitution. Sub-section lays down that the orders made by the Governor of a Province adapting the Act for provincial purposes will be limited to the appointed day, that is the 15th August. So far as the Governor General is concerned his power may be exercised not after the 31st March, 1948. The Governor General's power has not yet been exhausted. He can by a further modification of the Government of India Act introduce any changes he likes. Now the Governor General does not act on his individual discretion but on the advice of the council of ministers. So the bar of the Government of India Act may easily be removed by a further adaptation of the Act under sub-section 5 of section 9. This gives the Governor General powers any number of times which may be exercised before the 1st April 1948. Here is a shortcut which will remove all difficulties. The Bill may wait and in the course of this day the different Sections may be amended, adapted or modified by the Governor General and tomorrow we can introduce amendments, and they will be agreed amendments. There is no difference as to the purposes of the Members of this House. The only difficulty was procedural. The difficulty was supposed to be raised by the existing Government of India Act. But that can be adapted as many times as the Governor General pleases, he not being a Provincial Government. This aspect of the question will perhaps remove our hesitations and doubts and probably be acceptable to all sections of the House.

Shri Alladi Krishnaswami Ayyar: Sir, I heartily support the amendment proposed by the Honourable the Law Minister. That carries out the main principle of the amendment which I sought to introduce in the House. As a matter of fact, if I may say so, there is no constitutional point. The difficulty arises merely by reason of clause (b) of section 2 of this Bill which says 'judgment to which this Act applies' means any judgment, decree or final order of a High Court in a civil case from which a direct appeal could have been brought to His Majesty in Council, either with or without special leave, if this Act had not been passed." If you read it along with the interpretation put by the Privy Council, in regard to which some difference was expressed, you cannot bring a direct appeal if a constitutional point was raised unless through the medium of Section 205. As a matter of fact Section 206 itself provides that "the Dominion Legislature"—I am speaking of the Dominion Legislature and not of any other—"may by Act provide that in such civil cases as may be specified in the Act an appeal shall lie to the Federal Court from a judgment, decree or final order of a High Court *without any such certificate as aforesaid*", that is as mentioned in Section 205. So there is no constitutional point at all. The trouble arises because of the language of section 2 (b). That ambiguity is now removed. If section 2 (b) as it is, is read with the pronouncement of the Judicial Committee the difficulty may be created as by reason of the provisions of section 205 an appellant will be precluded from raising a constitutional point when a general appeal is lodged before the Supreme Court. But there is no constitutional point because section 206 itself provides that notwithstanding the absence of any certificate you can do this. The only difficulty that has arisen is by reason of the definition in section 2 (b) and the ambiguity has now been removed. There is no necessity for any further adaptation or any such thing. I need not go into the broader question as to what exactly is the power of this Dominion Legislature.

Mr. Speaker: That will be unnecessary at this stage. I shall put the amendment to the House.

The question is:

"That in clause 3—

- (1) The word 'and' at the end of sub-clause (a) (ii) be omitted;
- (2) The following be inserted as sub-clause (b):

[Mr. Speaker]

(b) in any such appeal as aforesaid, it shall be competent for the Federal Court to consider any question of the nature mentioned in sub-section (1) of Section 205 of the Government of India Act, 1935; and

(3) The existing sub-clause (b) be re-lettered as sub-clause (c)."

The motion was adopted.

Mr. Speaker: The question is:

"That clause 3, as amended, stand part of the Bill"

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clauses 4 and 5 were added to the Bill.

Shri M. Ananthasayanam Ayyangar: Sir, I beg to move:

"That after clause 5 of the Bill, the following new clause be inserted, namely:

"5A. After the appointed day, any party to an appeal pending before His Majesty in Council, before that day, may apply to the Federal Court to withdraw the appeal to its own file, if the appeal is one which if filed after the appointed day before the Federal Court it could have jurisdiction under this Act to entertain it; and the Federal Court may after notice to the other party to the appeal withdraw the appeal to its own file on such terms and conditions as it may deem fit."

The object of this amendment is this. The present Bill seeks to transfer to the Federal Court all appeals to which special leave was granted by the Privy Council, cases to which special leave was granted by the High Court and also cases where no leave is necessary but appeals could straightway be preferred to the Privy Council. But the previous section contemplates only cases which are not pending on that day, that is where preliminary steps have been taken and proceedings went only up to the stage of papers being transmitted. I would like the scope of this Bill to be extended even to pending cases. But some of them may be part-heard. It may not be desirable to transfer part-heard cases to the Federal Court. The parties might have incurred a lot of expenditure. But cases where the appeals might have been admitted but the other proceedings might not have begun and consequently no expenditure incurred by the parties—such cases pending before the Privy Council but which have not been in the stage of hearing or not been taken up may on the application of either party be withdrawn by the Federal Court, provided the Federal Court may after notice to the other party to the appeal withdraw the appeal to its own file on such terms and conditions as it may deem fit. One party might have incurred a lot of expenditure: it might have spent money in engaging solicitors, barristers etc. and the other party may move for withdrawal of that appeal just for inconvenience to the first party, and make it undergo once again all the trouble and turmoil. It is open to the Federal Court before which an application for withdrawal is made to consider the circumstances and to grant or reject the application, and if it chooses to grant the application, it may do so on payment of costs, etc. Therefore this is an enabling provision which would not be binding because an application ought to be made to the Federal Court and it is open to it to accept it or to reject it. A similar provision is contained in section 20 of the Civil Procedure Code for transfer of appeals from one court to another. We want to enlarge the jurisdiction of the Federal Court and to limit the jurisdiction of the Privy Council except in cases where progress has been made already to a considerable extent. In all cases we need not go to the Privy Council.

Shri K. Santhanam: What if the Privy Council refuses leave to withdraw?

Shri M. Ananthasayanam Ayyangar: My friend Mr. Santhanam asks me what will happen if the Privy Council refuses leave to withdraw? Under this Bill I have not contemplated the willingness or unwillingness of the Privy Council. It is if the application was made before the Federal Court and if the Federal Court chose to withdraw, the case will automatically go

Mr. Speaker: Amendment moved:

"That after clause 5 of the Bill, the following new clause be inserted, namely:

5A. After the appointed day, any party to an appeal pending before His Majesty in Council, before that day, may apply to the Federal Court to withdraw the appeal to its own file, if the appeal is one which if filed after the appointed day before the Federal Court it could have jurisdiction under this Act to entertain it; and the Federal Court may after notice to the other party to the appeal withdraw the appeal to its own file on such terms and conditions as it may deem fit."

The Honourable Dr. B. R. Ambedkar: Sir, I cannot accept this amendment. My honourable friend has not defined what is a pending appeal. The Bill defines a pending appeal. An appeal where papers have been despatched is deemed to be a pending appeal under the Bill. After the papers have been despatched there is no provision in this Bill for withdrawal for the simple reason that it is presumed that when papers and documents have been despatched, the parties have incurred all liabilities for payment of such costs as may be involved in that appeal, and there is therefore no reason why the appeal should be transferred to the Federal Court with the obligation of a double expenditure, once at the Privy Council end and once here: and I therefore think that we have to look at it purely from the point of view of the costs to the litigant. If sufficient costs have been incurred, then I think it is not right that the appeal should be transferred to the Federal Court. No doubt here there is provision that the terms of such transfer and withdrawal may be prescribed by the Federal Court. But I think it would be putting an unnecessary obligation upon the parties which they may not voluntarily accept and I therefore think that the provisions contained in the Bill ought to be regarded as satisfactory at the present stage.

Shri M. Ananthasayanam Ayyangar: I do not like to press my amendment. I do not want to divide the House on the matter. I consulted the Law Minister and I thought he consented.

Mr. Speaker: Apart from this, I was feeling another difficulty, and that was as to whether the Federal Court could be treated as a court superior to the Privy Council for the purpose of withdrawal of an appeal that has been filed. It would have been another matter if the amendment had sought to compel the litigant himself, but that is a question of phraseology of the section.

Has the Honourable Member leave of the House to withdraw his amendment?

The amendment was, by leave of the Assembly, withdrawn.

Clauses 6 to 8 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Dr. B. R. Ambedkar: Sir, I move:

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

Mr. Speaker: Motion moved:

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

Shri M. Ananthasayanam Ayyangar: Sir, with your permission I would like to say a few words in this connection. We are trying to do away with one bad thing after another of inferiority to foreign domination. The link is not yet completely severed. I would urge upon the Honourable Minister to take immediate steps, even without waiting for the constitution being framed formally, to bring a small Act raising the Federal Court to the status of a Supreme Court. So far as clothing the Federal Court with power is concerned, with all respect to my Honourable friend Dr. Ambedkar, I feel that the Federal Court in withdrawing such appeals as are pending before the Privy Council,

[Shri M. Ananthasayanam Ayyangar]

derives its power from this sovereign Assembly. Anyhow I have not pressed that matter and the matter does not arise. Therefore, Sir, with the help of the legislators and my Honourable friend Mr. Alladi, I hope very soon we will have a Supreme Court established in this country and do away with the Privy Council. We ought not to be satisfied with this and prolong the agony of going to a foreign court. They may not understand many cases where religious matters are involved and what the kind of mark is put on an idol. Muslim Waqf cases go there. They do not know any of our cases. They want to hold supreme authority over us, and it is for that reason that, though the Judges there may be impartial, they do not feel one with the community here. Therefore he alone would be wise who understands the manner in which the social trends work in a particular community. Therefore, Sir, without the least disrespect to the Privy Council I would urge upon our Minister and our Government to introduce a Bill immediately to raise the status of the Federal Court to that of a Supreme Court so that we may have independence in the matter of our own legal institutions at least as early as possible.

Mr. Naziruddin Ahmad: Sir, I also rise to support the motion. The Bill has raised high expectations which have not yet been fulfilled. There is section 6 of the Indian Independence Act which in sub-section (1) says that the Legislature of each Dominion shall have "full power" to make laws for that dominion, and as if there was any doubt, sub-section (2) provides—I read only the operative part—

"No law shall be void or inoperative on the ground that it is repugnant to.....the provisions of this or any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act. . . ."

So the full power of legislation through the Dominion Legislature sitting as such is conceded, and an assurance is given that no law would be inoperative because it may offend against any Act of the Parliament including the Government of India Act. And then again if there is the slightest doubt about it, the Governor-General can be made to make further modifications in the Government of India Act. That can be done under section 9 (5) of the Indian Independence Act. I hope the Government would take courage in both hands and come to this House with the full assurance that it is a sovereign legislature, and if there is any lurking suspicion anywhere, then the Governor General can be utilised to assent to another suitable adaptation. I think the House is unanimous as to the ultimate purpose of this Bill.

Shri Alladi Krishnaswami Ayyar: Sir, I just want to say a word or two about the Judicial Committee. While heartily supporting this measure, I must say that there is no doubt that in the long period of association of the Judicial Committee with the Judicial work of India, it has enriched considerably the jurisprudence of this country. There might have been occasional lapses in the interpretation of Hindu Law, which might have been set right. But on the whole I think even the Supreme Court cannot have a more illustrious example than the example of the Privy Council. Bred up in the tradition of law which the Privy Council has laid down, I feel that the Supreme Court in India can very well follow the illustrious example of the Privy Council. That does not mean any disrespect to our legal talent or our ability to master our own affairs. Every country would like to have its own judges, in particular its own law. That is so in Australia, in Canada and other countries of the world. We have come to our own and there is no reason why a distinction should be drawn between the judicial part of the administration and the other parts of the administration.

But at the same time, I must express my high appreciation of the work which the Judicial Committee has done during all these years; on very many important occasions the Judicial Committee has come out very well indeed though occasionally there have been lapses and there has been misinterpretation of our system of law.

Sir, that is the only reason why I have interposed at this stage of the debate.

Mr. Speaker: The question is:

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

The motion was adopted.

REPEALING AND AMENDING BILL

The Honourable Dr. B. R. Ambedkar (Minister for Law): Sir, I move:

"That the Bill to repeal or amend certain enactments be taken into consideration."

I do not think, Sir, any speeches are necessary because this is a very routine measure. There were certain enactments passed during the War; the powers given by them have exhausted; some of them have come to an end. It is very desirable that the Statute Book which has been so heavily burdened by these, should be pruned and curtailed. Sir, I move.

Mr. Speaker: Motion moved:

"That the Bill to repeal or amend certain enactments be taken into consideration."

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I do not want to take up your time, but I am only sorry that he has not added to the list of one hundred and fifty odd, the Government of India Act.

Mr. Speaker: The question is:

"That the Bill to repeal or amend certain enactments be taken into consideration."

The Motion was adopted.

Clauses 2 to 4 were added to the Bill.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill

The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That the Bill be passed."

Mr. Speaker: The question is:

"That the Bill be passed."

The motion was adopted

INDIAN TARIFF (SECOND AMENDMENT) BILL

The Honourable Shri N. V. Gadgil (Minister for Works, Mines and Power):

Sir, I beg to move:

"That the Bill further to amend the Indian Tariff Act, 1934, be taken into consideration."

Sir, this is a very small Bill which deals with two matters: one is protection for grinding wheels and segments; and the other is protection to fruit juices, jams and fruits dried and salted. It is very pleasant at least to utter these words if we cannot get the things.

You know, Sir, that at the request of the industries concerned, enquiries were ordered by the Government and the Indian Tariff Board went through the case of fruit preservation industry as well as the case of the industry of grinding wheels and segments. The recommendations of the Indian Tariff Board have been accepted by the Government; to give effect to these recommendations this Bill has been brought forward. There is nothing, so far as I am able to see, controversial about it and I do not want to take any further time of the House beyond stating that this protection is absolutely necessary. While granting this protection certain conditions have been laid down with respect to the grinding wheels and segments and one of them is that the principal company which

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runs this industry has been asked to turn it into a public limited company and Government have been informed that the matter is being referred to the legal adviser of the company and that it will be done. There is another firm which deals in this; it is located in East Punjab and owing to the disturbed circumstances, conditions which were expected to be fulfilled by that particular firm could not be fulfilled in time. But the Government have been assured that those things will be done and on that assumption this Bill has been introduced. Sir, I move.

Mr. Speaker: Motion moved:

"That the Bill further to amend the Indian Tariff Act, 1934, be taken into consideration."

Shri K. Santhanam (Madras: General): Sir, it is said that the wheels of God grind slowly but the wheels of the Commerce Department seem to grind rather fast because in their anxiety to give protection to the grinding wheels, they have brought before us a measure which, for the first time after our Freedom commits us to the principle of Imperial Preference. If you look at the Schedule given, Sir, you will find that under 20(1), for the fruit juices manufactured in a British colony it is 27 per cent., and when not manufactured in a British colony, 40 per cent. The present revenue duty is 20 per cent and so the fruit juices manufactured in this country get little—only 7 per cent.—compared to the fruit juices manufactured in a British colony. Really it is a protection to the fruit juices of the British colony, not so much to the fruit juices prepared in India. The same is to be found in the next column about the canned or bottled fruits. I am afraid the Commerce Department did not reflect on the serious consequences of formally bringing forward a measure which, though it is minor, commits this Legislature of Free India to the principle of Imperial Preference. It is in this way, carelessly I think, big issues are being brought in by the back-door. I wish they had not done it and I have tabled an amendment to remove this objectionable principle of Imperial Preference. I hope the Honourable Minister will see his way to accept it.

Prof. Shibban Lal Saksena (U. P.: General): Sir, apart from what my Honourable friend Mr. Santhanam has pointed out, I would like to say one thing about protection. I have been connected with the sugar industry which is also a protected industry, for the last 17 years; and I find that sometimes protection becomes a cause for inefficiency. Today, in fact, the sugar industry has become very inefficient on account of protection given to it. Although the question is under consideration whether this protection should not be taken away now, and although I agree that protection has done a good deal of good to the industry in the beginning, still I think that when protection is allowed to an industry, it must be seen that there is also some method to see that the industry is efficient. Otherwise the consumers will be burdened with an additional amount of money and I think the country also will not benefit very much by it. I therefore warn the Honourable Commerce Minister that while giving protection to these industries, he must also see that this protection is not used in a manner which fosters inefficiency.

As for the other big principle of Imperial Preference which was pointed out by my Honourable friend Mr. Santhanam, I think my Honourable friend the Commerce Minister will see that no Imperial Preference is allowed by this Bill, because I do not think that he wants the consequences, that followed from the betrayal of national interests at Ottawa by accepting the system of Imperial Preferences, to be repeated. I therefore hope that this principle of Imperial Preference will not be brought in by the back-door as is done in this Bill.

Shri B. P. Jhunjhunwala (Bihar: General): Sir, my Honourable friend Mr. Shibbanlal Saksena has said that he was not in favour of protection as it brings inefficiency and he quoted the example of sugar industry.

Prof. Shibban Lal Saksena: I did not say that I do not want to give protection; I said efficiency must be kept up.

Shri B. P. Jhunjhunwala: He gave the example of the sugar industry and said that he had been attached to it for 17 years and he found that that industry had become very inefficient. Sir, I beg to differ from him. My experience of the sugar industry has been that it has attained good efficiency so far as manufacturing side is concerned. In that side it has attained approximating standard of efficiency as is in Cuba, Java and other foreign countries.

Prof. Shibban Lal Saksena: No.

Shri B. P. Jhunjhunwala: Inefficiency lies not in the manufacturing side but in the cultivation of cane. Here the whole thing was controlled by Government. It was controlled on the ground that millowners did not give sufficiently high price to the growers. Government imposed a cess with a view to improving cultivation of sugar cane. They promised to utilise the cess for the improvement of sugar cane cultivation, which they did not do. They utilised it for some other purpose, and as such the cultivation side remained neglected.

Mr. Speaker: Order, order. I am afraid any detailed discussion in regard to sugar cane cultivation and sugar manufacture will not be quite relevant to the present purpose.

Shri B. P. Jhunjhunwala: Sir, I simply wanted to point out that sugar industry is not inefficient because of the protection as my Honourable friend has said. It is only inefficient in regard to the growing of cane, and that is because the Government imposed a cess which they did not utilise for improving the plantation of cane, and as such this should not be taken as an argument for withholding protection to other industries.

Prof. N. G. Ranga (Madras: General): Sir, I wish to warn my Honourable friend the Minister for Commerce not to take it for granted that this House will always be ready to pass any Bill for protection to any and every industry. In the past it used to be the practice to supply to members relevant extracts or a copy of the Report of the Tariff Board which went into this sort of a question and made recommendations. Now, we have not got that information. The next thing is, even my Honourable friend in his speech made it clear that in regard to this grinding stone there are only two firms. They have been private firms till now, and now it is the Government which is asking them, "For God's sake, convert yourself into a joint stock company, so that it will be possible for us to help you by giving protection." It is extraordinary how the Government have become so very solicitous in regard to this protection. Are we to understand that the Government have become a sort of boon-giver or gift-giver to all and sundry, whether they call themselves 'industrialists', whether they are joint stock companies or whether they are sponsored by interested parties. It does not matter whether there is any control over them or not. Government are very anxious to give them protection and they are asking them to convert themselves into joint stock companies. I think this approach is really very wrong and I hope the Commerce Department will think about it twice before they make any proposal like this next time.

An Honourable Member: What about this time?

Prof. N. G. Ranga: This time they are log-rolling things.

Secondly, Sir, one of our friends Mr. Shibban Lal Saksena, said—and quite rightly—that there is every danger, once protection is given, of efficiency not being kept up so high. Of course, he was partly answered by my friend Mr. Jhunjhunwala that so far as the sugar industry is concerned, you cannot very well level that charge. May be so, but nevertheless, we must satisfy ourselves that there would be sufficient competition between these various firms in order to ensure the necessary standard of efficiency, if we are to give protection at all. But when there are only two firms and up till now they have

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been private firms, how can we satisfy ourselves that there is going to be effective and powerful competition between them, how can we satisfy ourselves that they will necessarily remain efficient in management, in their labour and various other respects? And why has it become impossible for the Government to think of themselves taking up this business and running it? If the production of these grinding stones is of such vital necessity for our national economy, and if the total amount of capital that is going to be invested in it is not going to be such an enormous thing, certainly Government should think of running it themselves and giving themselves necessary protection, or whatever it is, instead of encouraging these two private firms to start the thing run it and make it worth while to run it. Therefore, Sir, I want the Government to.....

Shri T. T. Krishnamachari (Madras: General): Switch on from log-rolling to grinding?

Prof. N. G. Ranga: Why, my friend knows the value of grinding because all these concerns of the capitalists have been grinding their teeth against us, the ordinary voters in this country.

Therefore, Sir, I want the Government to see that at least when they come forward with similar proposals next time, they would take greater care and attend to this point of efficiency carefully as also not distribute these gifts to the private firms.

The Honourable Shri N. V. Gadgil: Sir, I am extremely obliged to the Honourable Members for having shifted the emphasis from mere grinding business and fruit to one of protection *versus* free trade. I know, Mr. Speaker, that you will not permit me to dilate on this, but I claim your indulgence for just a few minutes to answer this issue, which is merely academic for the present. In a country like this, if we can't supply capital immediately from the State, some scope must be given for our private enterprise, and so long as private enterprise does the pioneering work it is entitled to the benefit as well as to bear the burden. I agree with my Honourable friend Prof. Ranga when he says that when a particular industry claims protection it must no longer remain a private and a proprietary concern. That is exactly the view of the Tariff Board. It says:

"So long as an industrialist is prepared to bear all the risk of a pioneer enterprise on his own shoulder, it is open to him to decide as to whether his business should be run as a proprietary or a public company. He bears all the losses and derives all the gains of his enterprise. But if and when he comes forward with an application for public assistance, he is asking the public to share his risks and losses so that his business can tide over its financial difficulty. In such a case, it is obviously fair that he should also admit the public to some of the advantages of his business. One such advantage is the right to participate in the share capital."

That is exactly the condition laid down in this particular case. Now with regard to the general question of protection, as I said this country is committed to a policy of discriminating protection and certain conditions have been laid down, which if fulfilled will entitle the industry to some protection at the hands of the State. One of the conditions is that within a reasonable time when protection is given the industry must stand on its own legs. That is exactly the purpose of limiting the present protection to the period that is stated in the Bill. Sir, I know that protection works against the interests of the consumer in the short term. If we allow our country's industries to go on by following an un-mixed policy of Free Trade, there is no future even for the labourers. Therefore, we cannot but accept a policy which will try to balance the interest of the consumer as well as the larger interests of the country from the point of view of industrialisation and I think the policy of the present Government is on the right lines. Unless there is a radical change in it, the Bill cannot be said not to have complied with the broad outline of that policy.

Having said that, Sir, an important issue has been raised by my Honourable friend, Mr. Santhanam, that an attempt has been made, a back-door attempt, to bring in Imperial Preference. Apparently he may be correct, but I want to assure him that there is no such attempt; there is no such intention to bring in Imperial Preference, either by the front door or by the back door. The policy of this Government is to consider every trade, every business from the view point of India's best interests and to enter into agreement with other countries in the world. That is exactly the procedure that has been followed at Geneva and that is exactly the motive with which this Government has agreed to participate in the Havana Conference.

Now coming to these particular items, I want to bring to the notice of my Honourable friend, Mr. Santhanam, who is so very vigilant—I admire him for that—that only a few months ago, what he was complaining now was actually done in the amendment to the Tariff Act that was effected in April 1947. The broad point is that when revenue duties are converted into protective duties the preference ought to go automatically according to one interpretation of the agreement. The other interpretation is that the current preferences ought to remain till they are modified by mutual agreement or by the termination of the period for which the agreement has been entered into. I can assure my Honourable friend that it would not be very wise at this moment to unilaterally terminate the preferences which are being enjoyed for a pretty long time, although according to one interpretation, as I said, by simply turning the revenue duty into protection duty, we can end the preference, but in the present atmosphere, it will not be a wise step. We are already having some sort of negotiations on these matters at Havana and at Geneva. Therefore, this action on our part may possibly prejudice our chances in getting a better deal. I would, therefore, in all humility request Mr. Santhanam not to read too much in the Bill and agree with me that it has nothing to do with the larger question of Imperial Preference. But if this does not satisfy my Honourable friend, I give him a further assurance, that if after the return of Honourable Mr. Bhaba and if after studying the position that may arise as a result of our participation in the Havana Conference, we find that this preference has worked to the disadvantage of the industries for the protection of which this Bill has been brought, I assure him by an executive action, the preference will either be considerably reduced or eliminated. I think with that assurance and I am sure with his sweet reasonableness, he will not pursue the matter further, because if he does that, I will be forced to say something which may prejudice the chances of our people who are very skillfully and very delicately negotiating the situation at Havana.

Mr. Speaker: The question is:

“That the Bill further to amend the Indian Tariff Act, 1934, be taken into consideration.”

The motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Shri N. V. Gadgil: Sir, I move:

“That the Bill be passed.”

In moving this, I am extremely grateful to the Honourable Members of this House in making it possible to get through this Bill without obliging me to make any prejudicial or awkward remarks. I am also greatly obliged to Mr. Santhanam.

Mr. Speaker: The question is:

“That the Bill be passed.”

The motion was adopted.

ARMED FORCES (SPECIAL POWERS) BILL

The Honourable Sardar Baldev Singh (Minister for Defence): Sir, I beg to move:

"That the Bill to enable certain special powers to be conferred upon officers of the armed forces in disturbed areas, be taken into consideration."

Sir, in the beginning of this year when communal riots broke out in the Punjab on an unprecedented scale, the administration of that part of the country completely broke down. The Police there failed to perform its duties and in some cases they even refused to work. Another factor which must be borne in mind is that in that part of the country the Police was 90 per cent. of one community. The communal riots took a very ugly shape and the Provincial Government requested the Government of India for military help. We sent a large number of troops, but the presence of troops there did not very much improve the situation. It was not on account of the inadequacy of the troops, but because the troops were spread over the whole of that part of the country and under the laws then prevailing they were not in a position to take any action. Representations were made to the Government of India by several people, by the Section 98 Administration of the Punjab Province, and also by publicmen that additional powers should be given to the armed forces. In deference to the wishes of the local administration and other bodies, an Ordinance was promulgated which is before the House. This Ordinance, Sir, expires early in January or sometime in the middle of February and if we do not pass this Bill, the Ordinance will lapse and the armed forces will find themselves in a difficult position. It is for this reason that this Bill is placed before the House so that we do not have to resort to an Ordinance again.

The provisions of the Bill, Sir, may look drastic, but I wish to point out that up till now they have been worked without any hardship to anybody. The powers cannot be used unilaterally by the armed forces. Firstly, the provincial Government has to declare an area as a disturbed area; and, secondly, the provisions of the Bill are only for a year. If at the end of this year we consider that it is necessary to extend the provisions of the Bill for another period of one year, only then the Bill will be so extended. Upto now this Ordinance was in force only in the Punjab and later on when the communal situation in other parts of the country deteriorated the Governments of the U.P., Bengal and Assam asked the Government of India to extend the provisions of this Ordinance to those parts of the country also. So at present the position is that this Ordinance is in force in four provinces of India. Under this Bill we will be taking power which will apply to the whole of India, but it will be open to the provincial Governments to enforce this Bill in any way they like. They have complete power, first to declare an area as disturbed area, and then only will the provisions of this Bill come into operation.

That in short is the history of this Bill and the provisions that are contained in the Bill seem to be rather drastic; but I can assure the House that after the experience we have up till now we are convinced that the powers have not been unnecessarily used and there have been no complaints from any of the provinces. I hope the House will be convinced, if amendments are moved, that these powers will be used in the right way and there will be no complaint about it.

Another thing is that we have no intention at all to extend the period beyond one year. Some Honourable Members may have a feeling that perhaps we will go on extending it beyond one year or even later. I can assure the House that we have absolutely no such desire and it will be extended only if the communal situation does not improve. Sir, I move.

Mr. Speaker: Motion moved:

"That the Bill to enable certain special powers to be conferred upon officers of the armed forces in disturbed areas, be taken into consideration."

Pandit Thakurdas Bhargava (East Punjab: General): Sir, this is a Bill of a very special nature and I should like to make a few observations as regards its utility and also its legality. In my humble opinion this Bill is rather misconceived. I know that certain provincial Governments have passed certain Ordinances which are mentioned in clause 4 but, as was said in the debate on controls, it is a vicious circle. At a time when the Legislatures was not sitting certain Ordinances are passed; and when these Ordinances come into use it is taken for granted that since they have been there for a certain time they have thereby become sacrosanct. The reason advanced is that as no particular grievances have been brought before the House or before the country there is no reason why these Ordinances should not be regarded as having proved successful. My humble submission is that if you look into these Ordinances and the drastic nature of their provisions you will be convinced that they are nothing less than lawless laws. In the first place you have to consider the effect of a declaration under section 15 of the Police Act (V of 1861) which runs as follows:

(1) "It shall be lawful to the Local Government by proclamation to be notified in the official Gazette and in such other manner as the Local Government may direct, to declare that any area subject to its authority has been found to be in a disturbed or dangerous state or that from the conduct of the inhabitants of such area or class or section of them it is expedient to increase the number of police"

(2) "It shall thereupon be lawful for the Inspector-General of Police or other officer with the sanction of the Local Government to employ any police force in addition to the ordinary fixed complement to be quartered in the area specified in such proclamation."

The heading of the section is "Quartering of additional police in disturbed or dangerous districts."

The only purpose of making this declaration according to the Police Act was that power was taken by the Local Government to add to the number of police. This proclamation was intended for no other purpose. Now I understand the proclamation if made will entitle the military and air forces of the Crown to have certain powers. A reading of the Police Act will show that the situation contemplated by the Act is consistent with the idea that the civil authorities shall have power and authority in the province and not the military authorities. Now, Sir, we have just heard from the Honourable Mover of this Bill that in the Punjab there was complete chaos and the administration completely broke down and we have also heard that even troops could not give any protection. I know that in the Punjab there was an abnormal situation; I myself was a witness to that situation because I was in the Punjab in those days and I saw how the police and the troops were working. If a situation develops in such a manner as it developed in the Punjab my humble submission is that no provincial Government can properly control that situation. That was a case for declaration of martial law; that was not a case in which Ordinances like the one sought to be propounded would have been of any great use. When there is such a breakdown as we witnessed in the Punjab, and as has been admitted by the Honourable Mover of the Bill, it was a case where the civil administration should have stayed its hands and handed the administration over to the military authorities. In 55 Bombay, page 263 the conditions in which martial law can be declared have been laid down thus:

"Where a state of war, or insurrection amounting to war, exists, it is competent for the Crown in the exercise of its prerogative to place the country affected under martial law. Martial law in that sense. . . . is no law at all."

The judgment then goes on to say:

"The civil authorities are not entitled to abrogate their duties and to hand over control to the military except in cases of necessity—in as much as martial law is no law at all. The existence of martial law— . . . places all citizens in the area to which it extends under the unfettered control of the military authorities, whose acts are not justiciable by the civil Courts. . . . It is . . . plainly the duty of the civil authorities, assisted by

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all loyal subjects, whether civil or military, to carry on the civil administration, and not to hand over control to the military, unless the necessity of the case demands it It is undoubtedly the duty of the Courts, if the necessity is challenged, to enquire into the matter, and if the necessity is not established, then any persons who have committed acts not sanctioned by the ordinary law are liable to be attacked in the Courts at the instance of those who have suffered from their lawless acts."—(*Ratanlal and Thakore's Law of Crimes*, page 153.)

My humble submission is that in this situation, which has been compared to the situation as it existed in the Punjab, the civil authorities should have ceased to function and the country should have been made over to the military authorities and the military authorities would certainly have rendered such service as they were capable of. But as long as this is there, under Section 15 the law assumes that even the additional police would have been able to restore orders. This is the plain meaning of Section 15 because after the declaration the consequences are that the Local Government is authorised to have additional police. Therefore my submission is that the law of the country is quite clear and I will refer you to sections 127—132 of the Criminal Procedure Code by virtue of which if the Magistrate is unable to disperse any unlawful assembly, he can call in the aid of the military to help him and certain restrictions are given in section 132 by virtue of which the military does not have their own way. And if we compare the provisions of these sections (127-132) with the provisions contained in this present measure, you will be astounded to see the difference.

My humble submission is that either the civil authorities can function or they cannot function. If they cannot function, it is a case of making over the command to the military authorities. As long as the civil authorities function, it is the civil authorities who have the last say in the matter. It is the Magistrate or the Courts who will decide the rights and liabilities of the persons affected by that situation and not the military. According to the provisions of section 127 to 132 when a riot cannot be quelled by the civil authorities, then in that case alone the Magistrate is entitled to call in the aid of the military and the military then acts under the supervision and under the control of the Magistrate as long as he is there. If he is not there and the military is called in, then in that contingency the military are given certain powers, but those powers are very limited.

As regards this Bill, there is another point of view from which I wish to place the provisions of this Bill before you and it is in this contingency. Suppose the magistrate or civil authorities call the aid of the military and the question arises about quelling the disturbance or the riot, would the provisions of this Act apply or the provisions of the Criminal Procedure Code? I submit there would be conflict between the two authorities; but according to the authority of the Criminal Procedure Code, the Magistrate has the last say in the matter. But the military have no right if the Magistrate is there. According to the provisions of this Act, independent of the fact that the Magistrate is there or not, the military have the last say and they can shoot and kill any one they please. As long as the Criminal Procedure Code is not abrogated, this law will not have any force. In such circumstances, when a riot is quelled, this Bill shall have no force.

Now let us see to what cases and contingencies this Bill shall apply, and I wish to read to you the first section which shall show how misconceived and mischievous this Bill is:

"Any commissioned officer, warrant officer, or non-commissioned officer of His Majesty's military or air forces may, in any area in respect of which a proclamation under sub-section (1) of section 15 of the Police Act, 1861 (V of 1861) is for the time being in force or which is for the time being by any form of words declared by the Provincial Government under any other law to be a disturbed or dangerous area,—

(a) if in his opinion it is necessary so to do for the maintenance of public order, after

giving such warning, if any, as he may consider necessary, fire upon or otherwise use force, even to the causing of death, against any person, who is acting in contravention of any Law or order for the time being in force in the said area prohibiting the assembly of five or more persons or the carrying of weapons or of things capable of being used as weapons;"

After having read this, I will invite your attention to the salient points.

The first point is that any commissioned officer need not give any warning at all, because the words are "after giving such warning if any. . ." According to the provisions of the Criminal Procedure Code, the Magistrate has to give warning; the police officer has to give warning; every person who disperses an unlawful assembly has to give a warning. If an unlawful assembly is sought to be dispersed, the magistrate and police officer have to give definite warnings. According to these provisions, if from the air there is bombing over the nationals of this country, if firing is opened upon an innocent crowd, upon an assembly which may or may not be unlawful, it will be the right of this commissioned officer to shoot or kill people in any manner he likes.

Now, Sir, this is not all. Then the words are: "who is acting in contravention of any law or order prohibiting the assembly of five or more persons". What is this assembly? I will give you an instance which happened with me. In Gurgaon sometime back there was a riot and it was a fairly serious riot. After three or four days I went to Gurgaon because I received a wire from a lawyer friend of mine. The authorities had taken upon themselves to arrest hundreds of persons. Many of them were lawyers. I went to a lawyer friend. I called some lawyers to know from them what the matter was, but they could not come to my place because they said that five persons could not assemble. I asked them to come but they said they would not. I know it was wrong for the lawyers to think like that. But, if this Bill was there, the lawyers would be right, in view of the words "assembly of five or more persons". If such an ordinance is made, I think a commissioned officer will be within his right to go into a person's house and shoot the people there.

Then the words "who is acting in contravention of any law"—not that he is doing any particular act. "Acting in contravention" is too vague and any innocent person can come within the clutches of law. But if one or two persons are engaged in the act of looting—they cannot be fired at. If they are murdering people they cannot be fired at. If they are committing arson they cannot be fired at. But if they are acting in such a manner that they make an assembly of five or more persons however lawful, then they can be fired at.

Further on, there are the words: "or the carrying of weapons". What is a weapon? It is not defined. A *lathi* or a walking stick may be a weapon, a *danda* may be a weapon, a penknife may be a weapon. Suppose a person has licensed firearms; even then he will come within the mischief of this Act. Then the words: "or of things capable of being used as weapons". This passes my understanding. Anything may be called as a thing capable of being used as weapons. This is very vague.

Pandit Balkrishna Sharma (U. P.: General): May I interrupt my Honourable friend? I think there is a certain amount of misinterpretation regarding this clause of weapons. It is clearly said in clause (a) of sub-section 2 in contravention of any law prohibiting the carrying of weapons. So that the law under which the carrying of weapons will be prohibited will define what weapons are.

Mr. Speaker: Let him have his say. The Honourable Member may explain later on.

Pandit Thakur Das Bhargava: I was submitting that in my opinion if there was a law that if a person was committing murder, arson or loot and then he got fired at I could understand it. But to define the occasion in such

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a vague manner that any innocent person could be fired at the sweet will of a commissioned officer, is too much. Then again under the provisions of the Police Act a police officer must be on duty. A police officer belonging to any of the districts of the Punjab will not be on duty in Gurgaon unless he is posted there. But a commissioned officer is on duty wherever he is. There is no condition that he should be on duty or should be charged with the duty of maintaining peace and order. He is at liberty to act as he pleases. When an area is proclaimed as a dangerous or disturbed area, for a few days the emergency is there when disturbances are taking place and when control of freedom of action is necessary. But as soon as the emergency is over after a few days for some weeks thereafter there is a condition of suspense, when these powers can be abused a great deal.

I now come to the other powers. Clause (b) runs as follows:

"arrest without warrant any person who has committed a cognizable offence, or against whom a reasonable suspicion exists that he has committed or is about to commit a cognizable offence."

Sir, the armed forces of a country usually have the same character as the people of that country. If the police are bad, then I cannot say that our troops will be found to possess much higher character. According to the admission of the Honourable the Mover the police is corrupt and police rule has failed and therefore military is called in. What happened during the disturbances in the Punjab? When the Muslim police failed, the Baluchis came in and did things which the police could not do. So far as these powers are concerned I am of opinion that if these powers can be abused by the police, they can be abused much more by the armed forces. The words in section (b) are when a person is "about to commit a cognizable offence". According to the provisions of the Criminal Procedure Code no police officer is given powers to arrest a person who is about to commit a cognizable offence. Under Section 54 no powers are given to police officers to arrest persons who are about to commit an offence. It is a very dangerous power that a person should be authorised to arrest a man who is about to commit a cognizable offence. When a man is going on the road how can you say that he is going to commit an offence. He may be going to a temple. In my humble opinion it is too great and arbitrary a power.

The safeguards which are given in the Cr. P. C. about arrests are not provided in this Bill. Those safeguards may not be observed by those who may not be fully conversant with the processes of law. The powers given in clause (c) are very drastic. Any commissioned or non-commissioned officer can enter any person's house at night or day, where ladies live and search and when they find nothing, they may prepare false records as the police usually do. In order to safeguard against the abuse of this power section 103 is provided in the Cr. P. C. that the search should take place in the presence of witnesses, that a person cannot enter a house without giving proper notice to the occupants and without giving all kinds of facilities to purdah ladies to avoid the police when a search is made. No such provision is found in clause (c). Giving of these powers without the safeguards is very dangerous.

Section 8 is more dangerous than the rest. Section 132 of the Cr. P. C. says:

"No prosecution against any person for any act purporting to be done under this Chapter shall be instituted in any Criminal Court, except with the sanction of the Provincial Government."

So when the military is called in, they are saved from prosecution. Another safeguard is in clause (2) of Section 130 of the Cr. P. C. which is very important. It says:

"Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons."

There is no such safeguard here that the military should do as little harm as possible. On the contrary power is given to kill or behave in any manner they please. The only protection afforded is under Section 132. According to the provisions of Sections 76 and 79 of the I.P.C. you will see that the law is very strict. When a commander asks a soldier to shoot and the soldier shoots, he does follow the orders of his superior but in spite of his duty of obedience he is also liable under the civil law. The soldier is under a double liability. If he does not obey his commander he is liable to be court-martialled and if he obeys an illegal order, he is liable under the civil law and can be imprisoned by the civil court. On page 141 of the Law of Crimes it is said:

"A mistake of law in either case would afford no protection, though it might go in mitigation of punishment, and thus military discipline, while it regulates the conduct of the soldier in military matters, is made subject to a higher law in favour of public safety, when the act which the military discipline attempts to enforce or to justify is one which affects the person or property of another. In such a case the civil law looks to the surrounding circumstances to see whether they are of such a character as would lead a man of ordinary intelligence to entertain a reasonable belief that he is bound by law to obey the command of his superior. Obedience to an illegal order can only be used in mitigation of punishment but cannot be used as a complete defence."

In this bill the officer concerned has been vested with a very large discretion. If he thinks necessary to do a particular act for the maintenance of public order, he can do so. An officer might think that unless he struck terror into the minds of the civil population he would not be able to maintain public order and with a view to strike terror he might behave in a particular manner. The provision under section 3 is far too wide of the mark. No prosecution, suit or other legal proceeding can be brought against him. The Cr. P. C. only gives immunity against prosecution suit or legal proceeding can be brought against him if he does any act without lawful excuse, without believing that he is acting rightly. In Sections 76 and 79 of the I.P.C. the words 'good faith' are used. They constitute a very real safeguard. In this bill no such words are used. It is just possible that the frame of the ordinance might have made a mistake when he drafted the ordinance. I hope it will not be supererogation on my part to say that one ordinance was copied from another. The gentleman who framed the original ordinance was under the mistaken belief that by enacting such an ordinance he would be able to help the civil authorities. The civil authorities will not be helped. They ought to be helped when there are unlawful assemblies and a riot is going to take place. In that contingency if there is a magistrate and a commissioned officer it is the magistrate who should have precedence and who should be responsible for peace and order. As between these two officers who will have precedence. This new act will only have reference to the assembly of five or more persons. I therefore submit that this law if passed will not help the civil authorities as it purports to do. The provisions of the Bill are too drastic and might result in a set of circumstances when people will be put to great hardship and suffering on account of these provisions.

[At this stage the Honourable Mr. Speaker vacated the Chair, which was then occupied by Shri M. Ananthasayanam Ayyangar (one of the panel of Chairman.)]

Shri M. S. Aney (Deccan and Madras States Group): May I ask the Honourable Member whether he is going to move an amendment for reference to Select Committee or any other amendment?

Pandit Thakur Das Bhargava: I am not moving an amendment for reference to Select Committee, nor am I moving any other amendment.
4 P. M. I am not moving any one of my amendments. The Honourable Member is perhaps getting bored. He will please excuse me for I am just going to finish. I know I have taken some time of the House—perhaps more—

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than I ought to have. My only apology is that we are not taking the proper view of the legal provisions as contained in the Criminal Procedure Code with respect to this Bill. I am one of those who want that there should be peace in this land. I do not want that the scenes enacted in the Punjab should be re-enacted here. I do wish that the authorities were armed with full provisions to meet such contingencies. I wish that our civil authorities had more power and that in the proper way and by the proper laws they were authorised to deal with the situation as effectively as possible because I have myself seen the situation with which the people are confronted when there is no peace in the land and when the areas are disturbed or are dangerous. But this Bill will not go a long way in providing a solution to those difficulties. On the contrary, as soon as the emergency is over there will be such a reign of terror, as happened in the Punjab, which will be more terrible than the emergency itself when killings were going on. I have seen in Lahore that after the killings it was the Police and the Baluchis who were setting fire to the houses of Hindus and when the Hindus came forward to quench that fire they were fired at.

Shri Balkrishna Sharma: Did anything like that happen in East Punjab also?

Pandit Thakur Das Bhargava: I am only submitting to the House what I saw. I know that these things are not likely to happen in East Punjab. But where are those contending communities now?

Pandit Balkrishna Sharma: What happened when the communities were there?

Pandit Thakur Das Bhargava: The point has to be remembered that this measure applies to the whole of India. Therefore it is all the greater reason that we should be circumspect and not inflict any great hardship on the people whom you are not taking into consideration. If an Ordinance has been enacted in some provinces where is the occasion to make this an all-India measure. It is a very drastic measure as has been admitted by the Honourable the Mover. It really affects the rights of the public in general. It gives more power to the army than we are accustomed to. For the last, say, eighty years we have not seen such powers being given to the army. I submit there is no occasion for giving these powers to the army. Why not straightaway say that when an officer sees anybody committing loot, arson, etc. he should be allowed to fire at him or to kill him? There is no such provision. It is only in respect of one matter, that is 'acting in contravention of any law or order for the time being in force in the said area prohibiting the assembly of five or more persons or the carrying of arms'. This power should have been given in respect of more serious matters. The matter in respect of which power has been given is of not much consequence. The assembly of more than five persons may be for the purpose of combining together and going and seeing the authorities for help, and may be unarmed. But even then the powers will be exercised. I cannot agree to the powers given in this Bill. I cannot support the measure.

Shri H. V. Kamath (C. P. Berar: General): Mr. Chairman, for me it goes against the grain to welcome this measure on the morrow of our freedom and I have no doubt whatever in my mind that the Honourable the Defence Minister has brought this measure before this House with the utmost reluctance. There is a saying somewhere in the English language that desperate diseases need desperate remedies. But we have to consider here whether our body politic is suffering from such a desperate disease as to need such a desperate remedy. I believe today that we have tided over the worst crisis and that we have turned the corner so far as our internal disturbances are concerned. The Honourable the Defence Minister referred to the tumult, the shouting and commotion in the Punjab and other parts of our country and

on that ground sought to defend the enactment of this very extraordinary measure. This measure is intended to be temporary no doubt. Clause 1 says it will remain in force only for a period of one year² and later on may be extended for a further period not exceeding one year. It may be that one year is a short period. But if during that period a certain section of our forces—be they the police or the army—is going to be invested with very drastic and extraordinary powers, then it is a matter for thought. I for one would say that even a day of unbridled tyranny will entail a very great deal of suffering. Who can say, looking at the provisions of this Bill, that these wide and sweeping powers sought to be conferred upon the armed forces of our country may not be abused? Power is all right so long as it is used for the benefit and the good of the people. But are our troops so perfect that they may not abuse such powers conferred upon them? The powers are intended to meet certain emergencies. We all know well to our cost how our own Indian troops behaved in 1942. I was inside a prison just before August 1942. I am doubtful whether even in those days when the British Empire was about to crumble, when as Haw Haw said Churchill was fast becoming the undertaker of the British Empire—he had undertaken so many things in his lifetime that he was going to become the undertaker of the British Empire—I am doubtful whether even in those days our troops were invested with these sweeping powers, for instance arresting and searching without warrant. Fortunately I was not arrested without a warrant. A police officer came to me and when I asked for the warrant he produced it all right. Now the troops are to be clothed with these wide powers, namely arrest without warrant, search without warrant, and do almost anything they like without any order or warrant. This, to my mind, Sir, is an appalling measure to be brought before this House by a popular government which claims that it has got the backing of the whole nation, that the people are behind it and that they are strong to meet any emergency. Only the other day Sardar Patel declared on the floor of the House that "we are strong to meet any emergency". Then, Sir, the question arises, if we are strong to meet any emergency, why invest our troops, the army, the land forces and the air forces, with these most astounding powers? I do not know, Sir, whether there is any precedent in any other state, in peace time at any rate, for such a measure. There are times, I agree, when a state is in process of disintegration. Far back, during the days of the Roman Empire, when the empire was crumbling and was fast declining, the army became so powerful that there was a day when the Roman crown was put to auction for a mere song. The army could do anything and that marked the end that brought about the fall of the Roman Empire.

Sir, we know what the military mind is. We know what military methods are. I concede there are exceptions to the rule among them. Everywhere there are exceptions.

Pandit Balkrishna Sharma: You are an exception to the rule also.

Shri H. V. Kamath: My Honourable friend is an exception to many things. There are exceptions. There have been great military officers in the past, there are even now, and I have no doubt whatever there will be in the future. In recent times there has been a great military movement where the correct bias was given to military training. I refer, Sir, to the Azad Hind Fauj of Netaji Subhas Chandra Bose. In addition to ordinary methods of military training, they were given what was called spiritual training. That was why that army did such wonderful things. I do not know whether our Government, our Defence Minister, has under consideration the imparting of such spiritual training to our armed forces. If he has that in mind I feel very gratified and I welcome such an innovation in our military methods. That would give a completely new bias to military training and will reorientate the standards of the army. That will improve the morale of the forces and that will teach them how to contact the civil population, how to behave towards

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them, and how to mix with them as part of the people, as part of the nation. A movement of a similar sort came into being some 300 years ago in our own country, and that was through the agency of another leader, namely Shivaji. He also sought to inculcate a new outlook in his forces, and though it was a mere ragged army, a rabble in arms that force achieved something which perhaps we think today was an impossible feat. So my point is when we seek to clothe our army with powers, we should take care to see that they will use those powers, and not abuse them: and for that purpose, Sir, the cultivation of an outlook, of a mentality, of what the Germans would call Weltanschauung, is very necessary. Otherwise, Sir, we drift into disaster. We would merely make the army a dictator, make the army a totalitarian force, the very thing which we have been condemning all these years; the Nazi mentality, the Fascist mentality, the totalitarian mentality we will seek to foist on the soil of our mother country. Such a force might prove in emergencies, and even in peaceful times, a terror to the people, because there is a saying in the English language "So much a long communion tends to make us what, we are." There was a prisoner in a dungeon for twenty years, and when the time came for his release, he said he did not want to go and retain his freedom. So also our troops, if they are clothed with these powers and if they start exercising these powers for a considerably long period, I fear that that might become a habit with them, and as the saying goes, habit is second nature. Therefore we should be very much on our guard because, Sir, we are a popular legislature and we have a popular government; we must be on our guard to see that we are not putting on the Statute Book something which even the British Government in its worst days, in the days of the severest oppression and repression, did not dare to do. I do not think that the British Government even in 1942 and 1943 sought to clothe the army with these powers. After all, Sir, what is the function of an army in a modern state? The primary function of an army is the defence of the country, the defence of the people against external aggression.

Pandit Balkrishna Sharma: What about internal aggression?

Shri H. V. Kamath: I am coming to that shortly. That is the primary function of the army. There are occasions and emergencies when the assistance of the army is sought in civil disturbances: but when I said the primary function of an army is to defend the country against foreign aggression, I said what I meant, or I meant what I said. But here, Sir, we have a measure where if the provincial government declares a particular area as a disturbed or a dangerous area, then immediately certain things come into effect. I do not know,—because I am not very much conversant with what happened in the Punjab, Assam, Bengal, and the United Provinces,—but in the Central Provinces and Berar whence I come, some areas were declared as disturbed or dangerous on the very flimsiest pretext. After all you all know that the C.P. and Berar have been very free from communal disturbances.

Pandit Balkrishna Sharma: And yet the largest find of arms has been in the Central Provinces.

Shri H. V. Kamath: I am not referring to those areas where arms were found, but certain rural areas which were declared as disturbed or dangerous just because there was a sort of tavern brawl and here is a measure which confers upon the land forces and air forces certain powers which they would exercise in the cases which I have just cited. Suppose some Muslim *murgi* walks into a Hindu's compound and there is a sort of brawl, there is commotion. And there is a commotion and tumult and shooting. I am not joking; that thing has happened. And the next day the Deputy Commissioner or the Magistrate declares, "Here there is communal tension, and therefore it is declared a dangerously disturbed area". Well and good, the Chief Secretary says—after all the Chief Secretary does everything for the Premier

The Honourable Sardar Baldev Singh: But it is responsible government.

Shri H. V. Kamath: I know, that is why I say a popular Government should not bring such a measure. Well, the fiat goes forth from the Provincial Government saying that, "such and such an area is disturbed, send your forces, arrest people without warrant, detain people without warrant, search people without warrant". And as my friend Pandit Thakurdas Bhargava said, especially in the searches, no safeguard has been provided. Most astonishing that searches of houses could be conducted arbitrarily by armed forces! I remember, Sir, if my memory does not betray me, that the fundamental rights—at least some of which were adopted by the Constituent Assembly only a few months ago—did regard the privacy of a home as more or less sacrosanct; but here, Sir, is a measure which confers upon the Armed Forces this power to enter and search without warrant any premises, make any arrests, recover any person wrongfully restrained, any property reasonably supposed to be stolen property, or any arms kept in the premises. I do not know whether the premises include persons too on those premises; whether when the officers enter the premises they would studiously refrain from searching the persons on those premises. I do not think that the military mind and the military method could pursue such a course as merely searching the premises and leaving out the persons on the premises. When the officer comes into the premises and if he has come for recovering stolen property or unlawfully kept arms, certainly if he does not find anything on the premises, I have no doubt whatever that he will go and search the person; and as my Honourable Friend Pandit Thakurdas Bhargava said, what about the women on the premises? Are they going to be searched without any safeguards? Are they going to be searched without even those safeguards which the British Government did include in the Statute Book as part of the provision relating to any searches by even the police? As I said, the primary function of the Army is to defend the country against aggression but there may arise certain emergencies where they may usurp the powers of the police. I deliberately, advisedly use the word "usurp" because when the Army is clothed with these powers then all but martial law comes into effect. Then the police and the Civil Authorities are put out of action, are completely put out of action; and the army assumes command and takes responsibility for maintaining law and order. There is one aspect of this matter which I would like to stress and that is that there is not always much love lost between the Army and the Police—unless of course we seek to cultivate, our Government and our people seek in that direction and attempt that there should be cordial relations between the civil population, the Army and the Police. If on the flimsiest pretext the police begin to feel that "For our part we are not trusted",—and today we have got the Police, the Armed Police, the Special Constabulary and these special police to meet grave emergencies—but on the slightest excuse or pretext if the police are put out of action and the Army comes in on the spot, the Police are likely to have the feeling, "What are we for? We are not trusted, we have nothing to do here; the Army comes and takes up and performs our functions". Thereby it is very likely that bad blood will be created between the Police and the Army. Sir, on the eve of the Russian Revolution the Army and the Police fired at each other. It is not a laughable matter—it is a very serious matter. On the eve of the Russian Revolution the Police and the Army fired at each other. I do not want that such a state of affairs should arise in our country. I want—and I am very keen on it—that the civil population, the common people, and the Police and the Army must be on the most cordial relations.

Sir, when the State is in a process of disintegration, when the State is crumbling, then the Army steps in as I have said and the Army becomes a dictator. There is perhaps another case when the Army may step in, and

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that is when the State is in the process of formation, when it is still inchoate, when it is still formless, when it is still gathering round itself all its forces, all its resources. Are we, Sir, today in that position that we are still inchoate? Are we still moving towards form? We have a name already. Does our Defence Minister say we are moving towards that day when we shall be clothed with a perfect form? Then, perhaps that will be a ground to justify this extraordinary measure of clothing our Armed Forces with these extraordinary powers.

I shall not take much more time of the House. There are just another couple of points to be dealt with and then I will have done. War deteriorates and lowers all values and all standards. Soon after the conclusion of any war, there is no greater need than for a transvaluation of values; a re-evaluation of values. A devastating, destructive war in human history has just now ended and all over the world there has been deterioration in human standards, human values and spiritual values. Our Army too has not been free from it. Our Army has been to Europe, has been to the Far East, has been to most of the battlefields of the world, and our Army there, along with the armies of the world, has suffered this deterioration in standards. It is not that it is a permanent deterioration—I would not say that—but, at present, all over the world there has been a very grave deterioration in values and standards and there is all round a tendency to regimentation, and from that too our Army has not been free. With this mentality of our Armed Forces it is a dangerous game to play. It is very dangerous to invest our Armed Forces with these powers. I would request the Honourable the Defence Minister to give us a positive assurance on the floor of this House—nothing short of it will do—that these powers will in no event be abused and I would even request him to tell us that as far as practicable—as my friend Pandit Bhargava remarked—the power to make arrests, entries, searches and dispersal of unlawful assemblies etc. will be tempered by adequate safeguards as provided in the Criminal Procedure Code. Those safeguards are not put in this Bill in so many words, but I would like the Honourable the Defence Minister to make it clear. My friend Pandit Thakurdas Bhargava made a point that as long as this Criminal Procedure Code is there, how it could abrogate all the safeguards. Of course, an emergency law like this could abrogate anything, but after all we are not legislating in war time. There is peace in India and we are legislating for certain emergencies. But the emergencies envisaged here are such that power has been given to “prohibit an unlawful assembly of five or more persons” or “the carrying of weapons”. At least, if it had been said, instead of “weapons”, “dangerous weapons” it would have been clearer. As my friend, Pandit Thakurdas Bhargava pointed out, what is a weapon? A pen knife could be described as a weapon. Even to forks the same term can be applied. Unless therefore we state definitely what is a weapon and what is a dangerous weapon, it is very misleading. When you want to clothe the Army with these powers, firing even to the extent of causing death, then, you should be more explicit in what you say. Just saying “carrying of weapons” is not adequate to my mind. After all, when our National Movement was born, it took its birth on the morrow—if I remember aright—on the massacre of Jalianwalabagh. That massacre gave the impetus to our National Movement, gave birth to it under the leadership of Mahatma Gandhi. What was it, let me ask, that Gen. Dyer did at Jalianwalabagh? What was it? Well; I was a mere school boy then—so you will excuse me if I make a misstatement, I am speaking subject to correction—Gen. Dyer was an Army Officer, and here is a measure which seeks to clothe an Army Officer with extraordinary powers. Gen. Dyer was an Army Officer, he had extraordinary powers, but he did give a warning before he fired upon the crowd at Jalianwalabagh. But, here, as my friend Pandit Bhargava pointed, it is stated that warning is not necessary to be given. It is merely

stated, "such warning, if any, as he may consider necessary". This is most amazing.

So far as dispersing of an unlawful assembly is concerned, every time that occasion has arisen, in all times, and in all climes a warning has been given, unless it was in the deepest crisis of a war. If that was so, it is a different matter. But in peace time, in an emergency arising in peace time, no assembly has been dispersed without warning by an officer, whosoever he may be. But here, Sir, you are clothing the Army with certain powers and you have said "such warning, if any, as he may consider necessary". This beats me. It is the most appalling power. That means the officer can behave as he likes, arbitrarily. He may not give a warning. He may straightaway fire upon the crowd, and as my friend remarked in his speech, the assembly may be going to the district officer to make a representation to ask for help in a certain emergency. Where are the safeguards for them? As they proceed, without any arms actually, where is the safeguard for them from death? You will very well say "Death is preferable to tyranny", but the common man will not say that. After all, there must be something worth dying for. It is all right that death is preferable to tyranny.

*muhurtam jivalitam shreyo
nacha dhumantam chiram*

Better to live for a minute like a flame and not for hundred years like smoke. It is all very well to say that. But, Sir, there should be something worth dying for. These people proceeding in a peaceful procession to make a peaceful representation to the Magistrate or the District Officer have no safeguards, and the Army Officer if he takes it into his blessed head—if he has one—to fire upon these people, there is nothing to prevent him. After all, we are human beings. We may have grudges to settle; we may have old scores to pay off. Paying off old scores is an ancient custom. I consider it quite possible that there may be an Army officer who may have been annoyed by certain civilian members of the population and if he likes to pay off his old scores, he may fire upon them. He may think: "Here is the occasion. I am the master. Who is there to question me?" "You can't question me," he will tell the people. "Here is no question of your escaping. Either do or die". Do or die not in the sense of Mahatma Gandhi, but in a quite different sense. He won't let the people question him. Where is your authority? How can you stop him? Nobody could stop him. And these people who were going without arms, who were going to make a peaceful representation, will die. Perhaps, Sir, I am trying to draw the dark side of the picture. After all, every picture has got two sides and it may be that I am overpainting the dark side.

An Honourable Member: Certainly.

Shri H. V. Kamath: May be, Sir. But it is necessary, when we are clothing the Army with such powers that we must see the darkest side possible of this picture and I for one would not like that such a measure should go on the Statute Book. It will become law. After all, every province has passed some law. The C. P. and Berar has passed, I hope Madras and Bombay Governments have also passed, Public Safety Acts, the Goonda Act and so on which have met the situation in quite an adequate measure. Then, as my Honourable Friend remarked, after all one or two provinces had passed such an Ordinance and not other Provinces. By passing this Bill, we are seeking to legislate for the whole of India and 3 or 4 or 5 Provinces had not passed for such an Ordinance, and they have merely adopted the promulgation of the Public Safety Act and the Goonda Act. Speaking of C. P. and Berar, we have been able to cope with the situation without having such Ordinances at all. Therefore I would request the Honourable the Defence Minister to assure this House that these weighty powers, these sweeping powers conferred upon the armed forces.

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through this Draconian measure will not be abused, and if any army officer, if any officer of the Land and Air forces' who is clothed with this power, if he abuses these powers, he will be subjected to the severest punishment. It will be good if the Honourable the Defence Minister assures this House that if such an officer trespasses his powers, if he oversteps his powers, if he abuses his powers, it may be that the punishment meted out to him will be to the point of causing death. If he was instrumental in causing the death of another man, he too must be prepared to meet his death and on such an assurance only that the Honourable the Defence Minister may give us, we can agree to such an extraordinary measure which is designed to meet certain grave emergencies in the country. Thank you, Sir, for the patience which you and the House have exercised, I have done.

Shri K. M. Munshi (Bombay: General): Sir, I beg to intervene in the debate only because I feel that the Honourable Members who spoke last, forgot the reality of the situation altogether. Sir, I wish to bring to the notice of the House the provisions of this Bill which have been ignored largely in the last two speeches. But before that, I may mention to the House a little change in the situation to which I think, the attention not only of the House but of the country ought to be directed. The Criminal Procedure Code was passed in 1882. Its provisions were intended for the purpose of dealing with a situation where peace and tranquillity ordinarily reigned through the country and when it could be brought under the control of the ordinary normal police force. Sir, it has been found during the last 90 years that the Criminal Procedure Code is entirely inadequate to deal even with ordinary riots in the country, leave aside the present situation. It has been my—shall I say good or bad fortune—to have been associated in one way or the other with riots in Bombay since 1919—except as a rioter, of course. The evolution of the technique of rioting has been so speedy and so dangerous that an ordinary police force finds itself impossible to cope with it. I remember the riots of 1919 and 1923 in Bombay. Those riots were riots of two rival gangs throwing soda water bottles at each other, or at the highest, coming out with *lathis* and breaking each others' heads. Then, it took a communal turn—I am talking only of Bombay about which I have some knowledge. When even that happened, it did not take any serious shape. Soda water bottles was the fashionable missile in Bombay—soda-water bottles and sticks and very rarely knives.

Pandit Lakshmi Kanta Mahtta (West Bengal: General): Why not whisky bottle?

Shri K. M. Munshi: Whisky bottles are rather costly, and being a prohibitionist city, we do not believe in using whisky bottles. The riots then were really nothing as compared to the riots during the last ten years. But, Sir, even in those days, sometimes when the situation became very acute, the military had to be called in and Martial Law had to be proclaimed. When Martial law is proclaimed, the whole locality is handed over to the Military. There is no resort to any magistracy; there is no restriction on the power; the military can shoot at anybody suspected of a crime; it can go into anybody's house. The very nature of Martial Law presupposes that the military are in complete control of the area.

What this Bill proposes to do, in the first instance, is to interpose an intermediate stage between a normal rioting in a city or a place which can be handled by the police and an extremely advanced stage when it has to be handed over to the military to be dealt with under martial law. That stage, according to this Bill, is when the 'Provincial Government' which means, under the present conditions, the responsible Ministry in the Province, feels that it cannot cope with the situation with the aid of the Police in a particular area. Then, what does it do? Under Section 2 it declares that a particular area is a disturbed or

dangerous area. Once that is done, the powers given to the Military by this Bill come into operation; but not till then. It is only when the Provincial Government feels helpless to deal with the situation with the ordinary police, that it will issue a proclamation under Section 2 and when that proclamation is issued the military comes in. But it does not exercise all the powers which would be exercised by it if Martial law were proclaimed. Under this Bill the charge of the area remains with the Provincial Government for all purposes except that the Military is used for restoring public order. The great safeguard under this Act is that it is only when the Provincial Government confesses its inability to deal with the situation that this Act comes into operation.

Since the last war the riots have changed their nature and temper. They are not the result of two rough gangs quarrelling, but masses of men flinging themselves on each other in a particular disturbed area; whole communities are at each other. Something was said about a weapon. We have a class of 'lethal' weapon as known to the criminal law. But is it not a fact known to everybody that even pocket knives, of late, have been dangerous weapons? Is not knifing going on in a manner unknown to the Criminal Procedure Code? In Bombay even to carry a pen-knife, a pocket knife, may be sufficient to draw upon the owner a penalty of six months or more. The reason is very simple. Today men have evolved a technique of using even something which is not a weapon, the most innocent thing, the knife with which to mend a pencil, as a dangerous weapon. Therefore it would not be right to use the word 'lethal' or dangerous before weapon. A weapon is a weapon with which you kill or injure somebody.

During the last one year—after the world war—the situation has deteriorated. The sanctity of human life has disappeared; and it is not a riot; it is not five men who are disturbing peace, but whole masses of men, tens of thousands, at the throat of each other. That is the new tempo. In this situation what is a provincial Government to do? Invoke the assistance of the Criminal Procedure Code? Go and get hold of a magistrate at 12 midnight, before somebody is shot at?

The only other alternative, if you do not pass the Bill, will be immediately to declare martial law in an area as soon as riot begins. And once martial law is introduced then of course the military will use all the force that they possess. Therefore the whole approach of my two Honourable friends who spoke last is not correct. This deals with the situation as it is today; and the Bill is only to be in operation for one year. If the present situation goes on, possibly it may run for a year more. Anyway Government will come before the House if an extension of the Act is required. But for the moment I submit that it is essential that the provincial Governments should be given the power to declare an area disturbed in which they can secure the assistance of the military.

Shri K. Santhanam (Madras: General): May I ask one question? If the Bill is so essential and inoffensive why should it be only for one year?

Shri K. M. Munshi: The reason is that the present deterioration of the situation renders it necessary. It may be that within a year Honourable members may find that the situation is such that we can go back to the Criminal Procedure Code days; of course if you cannot go back, the Act may have to be extended. But as we see the situation around us there is no alternative but to take stringent measures for the purpose of maintaining law and order.

Pandit Thakurdas Bhargava: Even if this law is not enacted, cannot the military be called in?

Shri K. M. Munshi: I think I am trying to make it clear that if the aid of

[Shri K. M. Munshi]

the military is called martial law will have to be proclaimed. The whole area would be handed over to the military. In the circumstances as at present it is not possible to merely call in the military; as I said, the military used to be called in the old days when the riots were in isolated groups of a particular locality. Now when you find a whole locality blazing with enthusiasm for murdering men it is highly necessary that an atmosphere should be created of such power that the people will immediately sink back into normal ways of life.

Begum Aizaz Rasul (U. P.: Muslim): May I know whether the legislation that has been enacted by the provincial Governments like the Public Safety Act and the Communal Disturbances Act are not enough?

Shri K. M. Munshi: A provincial public Safety Act can only amplify the functions of the provincial Governments. The Provincial Legislatures have no power to give any additional powers to the military because the army is a central subject. This Bill has become necessary because even the Public Safety Acts which have been passed in the Provinces are not adequate to deal with the situation in some parts of the country.

Dr. P. S. Deshmukh (C. P. and Berar: General): Has any provincial Government made any reference about it?

Shri K. M. Munshi: That is a question which could better be addressed to the Honourable Minister and not to me.

Dr. P. S. Deshmukh: When my Honourable friend is arguing on that basis he ought to have got that information beforehand.

Shri K. M. Munshi: I am arguing as one who tries to study the present situation in the country and who has had something to do with riots for several years. I am giving my personal view; I am not concerned with what the Honourable Minister may say.

Begum Aizaz Rasul: The fear is that these powers will be abused and misused.

Shri K. M. Munshi: Therefore the first condition prescribed is that the provincial Government should declare an area disturbed. If, however, a provincial Government finds that the military is misusing its power it can certainly issue a proclamation saying that it is no longer a disturbed area and the powers will cease. In the last resort it is the provincial Government which is the sole judge of the situation and it can in effect recall the powers given to the military.

Prof. Shibhan Lal Saksena (U. P.: General): What is the guarantee that it will not be used against labour movements?

Shri K. M. Munshi: If the labour movement is peaceful, no one will ever dream of using any force. If a labour struggle is an ordinary disturbance of tranquillity the police will deal with it. But if a labour struggle assumes such proportions that it threatens the existence of the public order or the State, not only this Act but the whole force of India must be used to suppress it. I refuse to be frightened by words. In the name of labour trouble we cannot allow the Government of this country to be reduced to Kerenskyism. We know what labour struggle means in some hands: Government in power should be made so weak and so frightened in the name of civil liberties that it may not take any drastic action, and totter. That situation I think no citizen of India is prepared to accept. We are passing through an unusual phase. One regime is over; the British Empire is gone; and we have secured a peaceful transfer of power. When the Moghul Empire collapsed there were 150 years of misrule and anarchy. We do not want to have a repetition of that particular phenomenon in this country at this stage. And during the short time at our disposal—the coming two, three or five years till we settle down to peaceful

conditions—it must be the duty of Government and of every citizen of this country to see that the Government functions as a Government and not as a Government run by Kerensky.

Sir, only one word more and I have done. My Honourable friend Mr. Kanatu talked of the military. This House and the country realise—and I think my Honourable friend will realise—that the army of today is not the army which was built up by the British as a mere adjunct to the army of military occupation which was principally British. Our army is manned by some of the finest and most patriotic young men in this country today; and I claim for them that when they will discharge their duty they will do it not as an instrument of a foreign power to keep this country in subjugation but as patriotic citizens whose sole interest is to see that law and order is maintained. Is it right to say that in the past some soldier did something or the other and therefore the lads of free India are going to perpetuate the same thing; I think all that is the result of distrust. We have acquired for 30 years a distrust of all forms of Government. We do not like the police, we do not like the military; we do not like Government; we want that Government should not be powerful; that is our habitual approach. But we are conscious of the reality too; this is our Government and we want it to be strong. If we want our Government to be strong I submit that these powers must be given to the military.

Several Honourable Members: The question may now be put.

Chairman: I think there has been a sufficient discussion of this matter and so I will accept closure.

The question is:

“That the question be now put.”

The motion was adopted.

The Honourable Sardar Baldev Singh: Sir, it is not necessary for me to say anything more as my Honourable friend Mr. Munshi has made the position absolutely clear. I want to reply to one or two points raised by my Honourable friend Pandit Bhargava about the provisions of this Bill. One of the points he made was that it is not at all necessary, to have such a drastic Bill; in case the situation is beyond the control of the civil authorities the military should take it over under martial law. During the recent riots that we had in different parts of the country this situation was considered particularly in the Punjab when the communal riots went beyond the capacity of the local administration. I have not the slightest hesitation in saying that if to restore law and order and communal peace it is necessary to resort to martial law I will not hesitate to do so. But we have got an unhappy experience of martial law in this country and particularly in the province of the Punjab where we have had the worst type of communal disturbances. Now short of martial law this is the only alternative that we can resort to.

Dr. P. S. Deshmukh: This is very little short of martial law.

The Honourable Sardar Baldev Singh: I do not deny that the provisions of the Bill are drastic; and, as I have explained if we have to maintain law and order and avoid communal disturbances we should not hesitate to take as drastic measures as possible.

Another point was made by my Honourable friend Pandit Bhargava that never in the last 80 years was such a Bill brought before the legislature. That is true; but I may point out that not to speak of 80 years, never in the history of this country did we have to face such a situation as in the last two months. Even during the Moghul times such a situation never arose; there were complaints of communalism, but it was possible for Hindus and Sikhs to live under that rule. Then there were other rulers also but such a situation never arose.

[Sardar Baldev Singh]

Unfortunately it was during the last few months that we had to face the situation that is now before us.

Another point made was that we should give sufficient warning and that no action should be taken by the military without giving warning. I may cite one case in this connection. A military officer was living in a hotel and a crowd of about 6 or 7 thousand people attacked that hotel. This officer, finding the situation getting critical and feeling that he was doing a duty to his country and to his fellow beings, came out with a tommy-gun that he had with him and opened fire. No doubt he acted against the instructions and was responsible for killing a few people, but by that immediate action he saved the lives of hundreds of people. I give this example to show that if we lay it down that an officer must give warning, there were many occasions in the present communal disturbances when an officer had absolutely no opportunity to give due warning to the mob. I of course entirely agree with those of my Honourable friends who have criticised the Bill that warning should be given, but we must not forget that we are passing through extraordinary times. Hardly three months ago we got our independence after 150 years of slavery. And if we cannot manage the affairs of this country successfully we will stand condemned in the eyes of the world. It is therefore in order to enhance the prestige of the Government and to save innocent lives that it is necessary for us to have these powers.

A criticism was made that none of the Provincial Governments has asked for the enforcement of this Ordinance. I may inform my Honourable friend Dr. Deshmukh that three provincial Governments—U. P., Bengal and Assam—have asked for the enforcement of this Ordinance. I made that absolutely clear at the beginning of my speech.

A lot has been said about the risk of this power being misused by the army. My friend particularly mentioned the name of Baluchis. May I remind him that this power is not to be used by the Baluchis any more but it is to be used

by our own troops, the troops who are your own men and are under your control. If these provisions of the Bill were to be used by the military under the British rule, I would certainly have opposed it myself. Now the accredited leaders of the country are at the helm of affairs; the military is under them and not under a foreign power. Therefore, I do not feel that the army will in any case misuse the powers that are provided in this Bill.

A point was made by Pandit Thakurdas Bhargava about the Provincial Governments. He conceded the point that in case of an emergency we may have the provisions of this Bill. But he pointed out what happens if the emergency does not exist. In that case I wish to say that it is open to the Provincial Governments to withdraw that declaration of emergency any time they like. Take the case of the East Punjab Government. If they feel that the communal situation in the province is normal, it is for them to declare that the emergency does not exist and the provisions of these special powers will also cease to exist.

Therefore, as has been pointed out by my friend, Mr. Munshi, there are safeguards in this Bill and I think that with those safeguards we should have no fear that the provisions of this Bill will be misused.

I do not wish to add anything more as the different provisions of the Bill have been explained and I hope although the provisions in the Bill are drastic, it is necessary to meet the present emergency. I can say without hesitation that but for these powers it would have been impossible for us to check the situation that had arisen in Delhi and other parts of the country. Some hardships are however done to the people. There is no doubt about it and it is our duty to see that these powers are not misused. But in the circumstances we

are placed at present, and in view of the communal situation that prevails in the country, I am sorry to say that I have to insist on requesting the House to pass this measure.

Shri H. V. Kamath: Will the Honourable the Defence Minister tell us why he is not in favour of the customary safeguards so far as searches are concerned?

Mr. Chairman: He has explained that already. They will take all necessary precautions!

Mr. Chairman: The question is—

“That the Bill to enable certain special powers to be conferred upon officers of the armed forces in disturbed areas, be taken into consideration.”

The motion was adopted.

Mr. Chairman: The question is:

“That clause 2 stand part of the Bill.”

Clause 2 was added to the Bill.

The Honourable Sardar Baldev Singh: Sir, I move:

“That in the heading of Clause 3 of the Bill for the word ‘Ordinance’ the word ‘Act’ be substituted.”

Mr. Chairman: The question is:

“That in the heading of Clause 3 of the Bill for the word ‘Ordinance’ the word ‘Act’ be substituted.”

The motion was adopted.

Mr. Chairman: The question is:

“That clause 3, as amended, stand part of the Bill.”

The motion was adopted.

Clause 3, as amended, was added to the Bill.

Clauses 4 and 5 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Sardar Baldev Singh: Sir, I beg to move:

“That the Bill, as amended, be passed.”

Mr. Chairman: Motion moved:

“That the Bill, as amended, be passed.”

Shri K. Santhanam: Sir, I do not think it is right for me to allow this Bill to be passed without a word of protest. I do not think the popularity of a ministry is proportional to the extraordinary powers it takes or proportional to the restrictive legislation it introduces. This is the second black bill we have passed in the legislature, the first being the deprivation of the liberties of the press. Sir, I protest.

Dr. P. S. Deshmukh: Sir, I join the protest.

Mr. Chairman: At this stage have we not had sufficient protests?

Mr. R. K. Sidhwa (C. P. and Berar: General): I am not protesting. I am congratulating the Government for bringing this measure.

Several Honourable Members: That will do.

Mr. R. K. Sidhwa: Pandit Thakur Das Bhargava and Mr. Kainath took an hour and a half and I am entitled to at least five minutes.

Mr. Chairman: Mr. Aney.

Mr. R. K. Sidhwa: Sir, I am on my legs.

Mr. Chairman: The Honourable Member can stand on his legs again.

Shri M. S. Aney: Sir, I beg to point out that there is a motion before the House. No debate on that motion has taken place and I do not think that if any member wants to raise a debate any pressure can be put upon him. If there is a motion before the House and members of the House want a debate on it, so far as I know there is nothing to prevent such a debate.

Mr. Chairman: I do appreciate the position. One of the Honourable Members who rose up said that he wanted only one minute and another said that he wanted only three minutes. I therefore thought that the whole debate will be over in four or five minutes.

Prof. Shibban Lal Saksena: Sir, I want to speak for a longer time.

The Assembly then adjourned till Eleven of the Clock on Friday, the 12th December, 1947.