

Monday,
5th April, 1948

THE
CONSTITUENT ASSEMBLY OF INDIA
(LEGISLATIVE) DEBATES

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SECOND SESSION

of the

CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
1948



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CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

Monday, the 5th April, 1948

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

STARRED QUESTIONS AND ANSWERS

(a) ORAL ANSWERS

BORROWED SILVER FROM UNITED STATES OF AMERICA

1188. *Mr. R. K. Sidhva: (a) Will the Honourable Minister of Finance be pleased to state what is the amount of silver borrowed from the United States of America during the war and at what rate was it borrowed?

(b) Has all the silver under the above arrangement been received from the U. S. A.?

(c) How much balance of the silver actually received is still with Government?

(d) At what rate was silver disposed of by Government and what was the gain made therefrom?

(e) How is it proposed to return the silver?

(f) Has this silver been paid for? If not, in what shape have the sale proceeds been kept or invested by Government?

The Honourable Shri R. K. Shanmukham Chetty: (a) and (b). 226 million ounces of silver were obtained from the U.S. Government during the war on the understanding that the entire silver would be returned in kind, ounce for ounce, within 5 years from the date on which the U.S. President declared the end of the emergency.

(c) It would not be in the public interest to disclose this information.

(d) Part of the silver was utilised for coinage and a portion only was sold in the market. The average sale price of the portion sold was Rs. 127-0-3, per hundred tolas. Until the silver is actually returned, it is not possible to say whether the deal will ultimately result in a financial gain or loss.

(e) This will be considered at the appropriate time.

(f) There is no question of payment of value to the U.S. Government as the silver has to be returned in kind. The proceeds of silver sold were credited to the Central Government and merged in Government's Balances.

Mr. R. K. Sidhva: In what year was the emergency declared?

The Honourable Shri R. K. Shanmukham Chetty: The President of the United States has not yet declared that the emergency is over.

EXCHANGE OF FILES OF INCOME-TAX CASES OF MIGRATING ASSESSEES BETWEEN INDIA AND PAKISTAN

1189. *Mr. R. K. Sidhva: (a) Will the Honourable Minister of Finance be pleased to state whether it is a fact that the Government of India have approached the Government of Pakistan with a view to having the income-tax cases (files) of those persons who have migrated from Pakistan to India and vice versa transferred to the respective Dominions?

- (b) If not, do Government propose to do so?
 (c) What is the number of such assesseees who have come from Pakistan to India?
 (d) Is it a fact that all income-tax recovered for the period ending 31st March 1948 is to go to a joint pool account?
 (e) If so, what objections have Government in transferring such cases?

The Honourable Shri R. K. Shanmukham Chetty: (a) No, Sir.

(b) No, Sir.

(c) Government have as yet no information.

(d) No, Sir. The divisible revenue consists only of that portion of the collections made between 15th August 1947 and 31st March 1948 as are in respect of (i) assessment pertaining to 1946-47 and earlier years and corresponding chargeable accounting periods, and (ii) assessments pertaining to other years on which assessment orders were passed before 15th August, 1947.

(e) The Honourable Member is presumably referring to the transfer of case files by the Government of India to Pakistan in respect of those assesseees who have left India for Pakistan. If so, the Government do not propose to transfer such files as (i) in case the business of the emigrant still continues in India the file ought to be retained here and (ii) in case the owner of the business has left and the business here has ceased to exist this Government is no longer interested. I may add for the information of the Honourable Member that an agreement has been reached between the two Dominions to the effect that no *ex parte* assessment of absentee assesseees from West Punjab, East Punjab and Delhi will be made in either Dominion till 30th June 1948.

Mr. R. K. Sidhva: My point was: In view of the difficulty that will be experienced by the persons who have come out to India, what facilities Government intend to give for the purpose of assessment?

The Honourable Shri R. K. Shanmukham Chetty: It has been stated in reply. It has been arranged between the two Dominions that no *ex parte* assessments will be made until 30th June 1948. Until 30th June the assesseees concerned or affected will have an opportunity of presenting their case.

Mr. R. K. Sidhva: The point is: Will they have to go to Pakistan? If that is so, would it be possible for them to do so, and what arrangements Government propose to make?

The Honourable Shri R. K. Shanmukham Chetty: If it is a case within the competence of the Pakistan authorities, there is no other go. Then assessee must take some steps to see that he is presented before the Income-tax Authorities in Pakistan. The same happens in the case of people who have to give an account to the Indian Dominion. It is a reciprocal arrangement.

Shri Deshbandhu Gupta: May I know, Sir, whether it is a fact that the Government of India had given certain facilities to assesseees who had evacuated from Burma, and if so, have Government considered the desirability of extending the same facilities to these refugees from West Punjab and other parts of Pakistan in respect of assessment etc.

The Honourable Shri R. K. Shanmukham Chetty: Sir, we can give any facility so far as our own income-tax Authorities are concerned, but where an assessee has to be assessed by the Pakistan Authorities there is really nothing that we can do. We have made a reciprocal arrangement.

Shri Deshbandhu Gupta: May I know whether the Honourable Minister realises that there are assesseees who have got their common business in both the West Punjab and the East Punjab and in respect of such assesseees will Government consider the advisability of extending the same facilities to them, because

they have lost heavy assets there and they deserve some relief on the same lines as was given to Burma evacuees?

The Honourable Shri R. K. Shanmukham Chetty: No question of relief arises in this case. It is purely a question of the procedure of assessment.

Shri Deshbandhu Gupta: What I want to know from the Honourable Minister is: whether in the case of firms which have lost their account books, and assets in Pakistan, consideration will be shown to them in the matter of valuation of those assets and such like matters, and whether they will be given the same facilities as were given to the Burma evacuees?

The Honourable Shri R. K. Shanmukham Chetty: In other words, the Honourable Member is referring to those assesseees who will come within the jurisdiction of our Income-Tax Authorities and who have lost their property . .

Shri Deshbandhu Gupta: Yes.

The Honourable Shri R. K. Shanmukham Chetty: Certainly. We will give the utmost consideration to these cases.

PAYMENTS TO PERSONS FOR POSTAL CASH CERTIFICATES AND INTEREST-FREE BONDS
LOST DURING DISTURBANCES AT KARACHI

1190. ***Mr. R. K. Sidhva:** (a) Will the Honourable Minister of Finance be pleased to state whether Government are aware that several persons in Karachi have lost their Five Year Postal Cash Certificates and Government of India Five Year Interest-free Bonds, during the disturbances on the 6th and 7th January, 1948?

(b) What arrangements do Government propose to make for the payment of these amounts to the owners of the bonds and certificates, even where numbers are not available?

The Honourable Shri R. K. Shanmukham Chetty: (a) Government have no information.

(b) Does not arise.

Mr. R. K. Sidhva: In the event of such things happening, what steps Government intend to take?

Mr. Speaker: That would be a hypothetical question at this stage.

Mr. R. K. Sidhva: Can Government suggest any way by which.....

Mr. Speaker: No further question on a hypothetical basis.

REMODELLING OF PRISON SYSTEM IN CENTRALLY ADMINISTERED
REFORMATORIES

1191. ***Shri V. C. Kesava Rao:** (a) Will the Honourable Minister of Education be pleased to state whether Government have considered the question of remodelling the prison system in the centrally administered Reformatories on more humane lines?

(b) Is it proposed to appoint a committee to investigate into the present system?

The Honourable Mr. Rafi Ahmed Kidwai: (a) and (b). The question is not quite clear. The Ministry of Education is not concerned with the Prison system.

Shri Deshbandhu Gupta: May I know whether this question has been passed on to the Ministry of Home Affairs?

The Honourable Mr. Rafi Ahmed Kidwai: Yes.

PRE-CADET TRAINING INSTITUTIONS IN INDIA

1192. ***Shri V. C. Kesava Rao:** (a) Will the Honourable Minister of Defence be pleased to state the number of institutions and their location where pre-Cadet training is carried out?

(b) Do Government propose to open any additional schools for pre-Cadet training and if so, where are they to be located?

The Honourable Sardar Baldev Singh: (a) There are no institutions in India now specially engaged in carrying out pre-Cadet training.

(b) No.

RAILWAY FACILITIES FOR GOVERNMENT EMPLOYEES UNDER PAY COMMISSION RECOMMENDATIONS

1193. ***Shri V. C. Kesava Rao:** (a) Will the Honourable Minister of Home Affairs be pleased to state what steps Government have taken to carry out the recommendations of the Pay Commission to provide railway facilities for Government servants and their families?

(b) Has this recommendation been accepted by the Provincial Governments?

(c) What is the additional expenditure likely to be incurred by the Government of India to implement this recommendation?

(d) What is the average expenditure incurred annually on rest and recreation allowance previously granted to the employees of the Government of India?

The Honourable Pandit Jawaharlal Nehru: (a) Government have decided to introduce with effect from the 1st January 1948, the system of Privilege Ticket Order for all grades of the Central Government servants going on leave and their families on the lines recommended by the Central Pay Commission.

(b) Government have no information in the matter.

(c) and (d). The annual expenditure on rest and recreation allowance is estimated at Rs. 31 lakhs: that on the new system of Privilege Ticket Order at Rs. 81 lakhs.

CULTURAL MISSIONS TO FOREIGN COUNTRIES

1194. ***Seth Govinddas:** (a) Will the Honourable Minister of Education be pleased to refer to the answer given to my starred question No. 399, asked on 23rd February, 1948, and state to which countries Government propose to send Cultural Missions in the near future?

(b) What would be the personnel of such Cultural Missions?

The Honourable Mr. Rafi Ahmed Kidwai: (a) In reply to a supplementary question asked by the Honourable Member on the 23rd February, 1948, the Education Minister said that Government would consider the suggestion that those countries where we do not have any diplomatic representatives should be given priority at the time of considering proposals to send out Cultural Missions. That assurance stands and the matter is under consideration.

(b) This will be considered in the light of the nature of a particular mission.

Seth Govinddas: After that reply, Sir, have any countries been selected where the Cultural Missions are to be sent out in the near future?

The Honourable Pandit Jawaharlal Nehru: There has been no specific choice of any place. In fact, if I had been answering the question which the Honourable Minister for Education answered on the last occasion, I would not have given that assurance, because in conditions as they are today, it is very difficult, barring some places in Asia, to think in terms of sending Cultural Missions. The international situation and other factors are so difficult that nobody is

prepared to listen to 'culture' as such. As the Honourable Member knows, recently a Mission, not sponsored by Government, but nevertheless a Cultural Mission went to Indo-China from India, and, it did good work. Several occasions may arise where this can be done with advantage to all parties concerned. But on the whole, it is rather difficult in existing circumstances to think in terms of sending Goodwill or Cultural Missions to distant countries.

Shri H. V. Kamath: Where we have no Embassies or Consulates or other diplomatic representation, what are the ways and means for our cultivating intimate contact with those countries?

The Honourable Pandit Jawaharlal Nehru: A Cultural Mission does not take the place of diplomatic representation. In fact, it is something often in addition to it. If we have no diplomatic representation, the mere mechanism of sending a Cultural Mission is not so easy. In fact, we have to approach them through some other country in order to make arrangements for the Cultural Mission to go, because we have no direct approach to them and we have no direct representation. So possibly in the case of some countries, if we want to send a Cultural Mission to them we have no other approach. We have to go to the British Government to inform them that we want to send a Cultural Mission. It is a complicated way which normally one does not adopt. It is easier to have some kind of diplomatic representation and then send a Cultural Mission dealing with them directly.

ORIAS IN CENTRAL EXCISE DEPARTMENT AND POLICY RE RECRUITMENT

†1195. ***Shri Lakshminarayan Sahu:** (a) Will the Honourable Minister of Finance be pleased to state whether it is the policy of Government to absorb local people in each Province for the Central Excise work?

(b) If so, how many people in the Province of Orissa are in the Central Excise Departments in higher grades?

The Honourable Shri R. K. Shanmukham Oshetty: (a) and (b). I lay on the table of the House a statement setting out (a) the policy of Government in regard to regional recruitment in the Central Excise Department, and (b) the number of officers in the higher grades who belong to Orissa.

Statement

(a) Recruitment and promotions in the Central Excise Department are at present made as follows:—

(i) Collectors and Deputy Collectors By promotion or transfer on an all-India basis.

(ii) Assistant Collectors By promotion or transfer on a regional basis.

1. Whole of Northern India for Calcutta, Allahabad, Shillong and Delhi Collectorates.

2. Bombay and Central Provinces and Berar for the Bombay Collectorate.

3. Madras and Coorg for the Madras Collectorate.

(iii) Superintendents of Central Excise and Deputy Superintendents of Central Excise. By promotion or transfer normally within the territorial jurisdiction of each Collectorate.

(iv) Inspectors Direct recruitment or promotion within the territorial jurisdiction of each Collectorate (including adjoining Indian states).

†Answer to this question laid on the table, the questioner being absent.

(b) Number of Central Excise employees in the higher grades in Orissa and the number of persons of Orissa domicile in each grade as on the 1st January 1948

Rank	Total staff posted in Orissa	Number of persons of Orissa domicile
Assistant Collector	1	1
Superintendent of Central Excise	4	.
Deputy Superintendent of Central Excise	12	4
Inspector	119	84

PERSONNEL AND PURPOSE OF DEFENCE DELEGATION VISITED U. K. IN MARCH 1948

1196. ***Shri H. V. Kamath:** Will the Honourable Minister of Defence be pleased to state:

(a) the personnel of the Defence Delegation which visited the United Kingdom early in March 1948;

(b) the purpose of the visit and the results achieved;

(c) whether any member of the Constituent Assembly was associated with the delegation; and

(d) if not, why not?

The Honourable Sardar Baldev Singh: (a) (i). Mr. H. M. Patel, Defence Secretary (Leader), (ii) General F. R. R. Bucher, Commander-in-Chief, Indian Army, and (iii) Mr. A. K. Chanda, Additional Secretary, Ministry of Finance (Defence).

(b) The object of the visit was to have personal discussions with His Majesty's Government regarding certain Departmental matters such as procurement of stores, recruitment of technical experts for ordnance factories etc. His Majesty's Government were most co-operative and the visit has been of great value.

(c) No.

(d) As the discussions with His Majesty's Government were, as already stated, on purely Departmental matters, it was not considered necessary to include in the delegation a member of the Constituent Assembly or any other non-official.

Shri H. V. Kamath: Has any member of the Constituent Assembly been associated with any of the Defence Delegation which visited the United Kingdom during recent months?

The Honourable Sardar Baldev Singh: As far as I remember, Sir, this is the only Delegation which was sent by the Defence Ministry and as I have stated, no non-official was associated with the Delegation.

Shri H. V. Kamath: In future when any delegation is sent abroad, including the Defence Delegation, do Government propose to associate non-official members of the Standing Committee or of the Constituent Assembly?

The Honourable Sardar Baldev Singh: It all depends on the nature of the work.

PAY SCALES OF 'A' GRADE CLERKS IN SECRETARIAT AND AUDIT AND ACCOUNTS OFFICES

1197. ***Shri H. V. Kamath:** Will the Honourable Minister of Finance be pleased to state:

(a) the pay scales of "A" grade clerks of the Secretariat and of the Audit and Accounts Offices respectively;

(b) whether any discrimination has been made in the application of the Pay Commission's recommendations to the two categories aforementioned; and

(c) if so, why, and what the new scales fixed for them are?

The Honourable Shri R. K. Shanmukham Chetty: (a), (b) and (c). The nomenclature 'A Grade Clerk' was for the first time used during the war to describe certain posts of 'upper grade clerks' temporarily upgraded in the Audit and Accounts Offices. This was a part of a scheme for unifying the scales of pay of the Secretariat the Attached and the subordinate offices for administrative reasons due to difficulties arising out of the recruitment of personnel during the war. It was not the intention of Government permanently to upgrade posts of upper grade clerks in the Audit and Accounts Offices. In fact the rationale of this scheme of unification of scales was temporarily to downgrade the scales of pay in the Secretariat and to upgrade certain posts in the Audit and Accounts Offices in order to facilitate recruitment of personnel to all the offices of Government of India. The Pay Commission after consideration of all the representations addressed to them, decided to maintain the prewar distinction between the posts in the Audit and Accounts offices and the posts of Assistants in the Secretariat. They have recommended a scale of Rs. 80—220 for upper division clerks (Graduates) in subordinate offices and a scale of Rs. 160—450 for Assistants in the Secretariat. Government have accepted the recommendation of the Pay Commission but in view of the loss that the clerks who were upgraded during the war would suffer by being fixed in the new scale in accordance with the ordinary rules, they have allowed them, as a special case, to retain the benefit of their wartime pay for fixation of their pay in the scale now prescribed by the Pay Commission.

Shri H. V. Kamath: Till what date, Sir, was the unified scale of pay introduced during war-time in force? When was it abolished and the new scales introduced?

The Honourable Shri R. K. Shanmukham Chetty: The new scale, I take it, must have been introduced when the Pay Commission's recommendation was given effect to.

Prof. Shibban Lal Saksena: May I ask the Honourable the Finance Minister whether any of the 'A' grade clerks who have been upgraded will be given the Assistant's pay and emoluments or will they not?

The Honourable Shri R. K. Shanmukham Chetty: I must have notice of that question.

Shri H. V. Kamath: Is it a fact that Sardar Mangal Singh, who was a member of the Central Pay Commission, has admitted that the question of 'A' Grade clerks was never brought to the notice of the Central Pay Commission and that if it had been brought before them, it would have been suitably and justly dealt with?

Mr. Speaker: Is it stated by him in the Report?

Shri H. V. Kamath: Yes, I think so.

Mr. Speaker: The information then need not be asked for, if it is stated in the Report.

Shri H. V. Kamath: I am not sure whether it is in the Report that he has made a statement to this effect.

Prof. Shibban Lal Saksena: Are Government aware of the fact that there are some 'A' grade clerks who are getting the pay of Assistants?

The Honourable Shri B. K. Shanmukham Chetty: I do not know, Sir. I must have notice of that question.

Prof. Shibban Lal Saksena: If there are any such people, will the Honourable Minister kindly consider that point?

The Honourable Shri B. K. Shanmukham Chetty: There is no information on the point.

IMMORAL TRAFFIC IN ABDUCTED AND REFUGEE WOMEN IN DELHI PROVINCE

1198. ***Shri H. V. Kamath:** Will the Honourable Minister of Home Affairs be pleased to state:

(a) whether Government are aware of the increasing immoral traffic in abducted and refugee women in Delhi province;

(b) the steps so far taken by Government to combat the same; and

(c) whether Government propose to create a special vigilance squad to deal with this menace?

The Honourable Pandit Jawaharlal Nehru: (a) Government are aware that there is a certain amount of such traffic.

(b) and (c). Persons suspected to be engaged in this crime are being rounded up. Already 5 persons have been arrested while four others are still absconding. A special staff of the local police has been deputed for this work.

Shri H. V. Kamath: How many raids have been conducted so far, Sir, on dens, hotels and houses of ill-fame in connection with this campaign?

The Honourable Pandit Jawaharlal Nehru: I could not give the number, but I am informed that that is a regular feature of the police activities to carry such raids in hotels, restaurants, and the rest.

Shri H. V. Kamath: Is it a fact, Sir, that as regards this immoral traffic there is an organized gang with inter-provincial ramifications?

The Honourable Pandit Jawaharlal Nehru: I am informed in my brief that we are not aware of any big gang, but the Honourable Member is well aware of the fact that it is an inevitable concomitant of metropolitan life with all the criminals, and such like elements who foregather in the big cities in gangs and individually—small groups, big groups—and carry on all manner of undesirable activities. I do not know whether it is an organized gang or not, but organized groups are doing it.

PRIVY PURSES DRAWN BY FORMER RULERS OF KATHIAWAR STATES

1199. *Shri H. V. Kamath: Will the Honourable Minister of States be pleased to state the amounts of privy purses drawn by the former rulers of Kathiawar States now integrated into Saurashtra?

The Honourable Pandit Jawaharlal Nehru: A statement containing the information is placed on the table of the House.

Statement.

Showing the amount of privy purses fixed under the Covenant to the Rulers of Kathiawar-

Salute States

1. Nawanagar.	10,00,000
2. Bhavnagar.	10,00,000
3. Porbandar	3,80,000
4. Dhrangadhra	3,80,000
5. Morvi	8,00,000
6. Gondal	8,00,000
7. Jafrahad	16,000
8. Wankaner	1,80,000
9. Palitana	1,80,000
10. Dhrol	1,10,000
11. Limbdi	1,95,000
12. Rajkot	2,85,000
13. Wadhwan.	1,42,000

Non-Salute States

1. Lakhtar	91,000
2. Sayla.	62,500
3. Chuda	51,250
4. Vala	88,750
5. Jasdan	1,50,000
6. Amarnagar Thana-Devli.	1,00,000
7. Vadia	78,250
8. Lathi	77,500
9. Muli	53,000
10. Bajana	65,500
11. Virpur	44,500
12. Maliya	47,500
13. Kotda-Sangani	67,000
14. Jetpur	1,00,000
15. Bilkha	1,00,000
16. Patdi	20,000
17. Khirasra	30,000
18. Vanod	38,400

Shri H. V. Kamath: May I ask whether the privy purse drawn by the former rulers of Kathiawar have been reduced since the States have been integrated into Saurashtra?

The Honourable Pandit Jawaharlal Nehru: That is again a question to which probably a general answer is not possible; at any rate, I am not in a position to give it. Various principles have been laid down and it may be, I do not know, that in some cases that principle may work out to the advantage of the Ruler or to his disadvantage. Also the rulers have had not only what is called a privy purse but large private estates which are not their privy purse but bring them a large income. It is not always quite clear whether these estates are private or State property. Anyhow they get an income from them; that is to be compounded to us. All these factors have to be taken into consideration in fixing the new civil list for them.

Shri H. V. Kamath: Does that mean that the privy purses of some may be increased as compared to what they were before?

The Honourable Pandit Jawaharlal Nehru: I cannot say that without actual reference to each one. But my point was that the actual privy purse is fixed, and in addition to that there have been so many other ways of income. So in the balance I am sure it has been reduced in all the cases. But it may be that the actual figure fixed for the privy purse may appear bigger because other sources of revenue for the ruler have been cut off.

Shri H. V. Kamath: Is it a fact that some of the erstwhile rulers have misappropriated some public property?

Mr. Speaker: Order, order.

Seth Govinddas: Is it a fact that when these privy purses are fixed for individual rulers the private estates which they have are also taken into consideration?

The Honourable Pandit Jawaharlal Nehru: I should imagine so.

Seth Govinddas: Then may I take it that the privy purse of those rulers who have private estates is less than that of others who have none?

The Honourable Pandit Jawaharlal Nehru: It is a little difficult for me to answer these questions because private estates are of various kinds. Some may be entirely private, which are not touched at all; others may be in effect State property but which so far have been considered private property of the ruler. So one has to distinguish between all these things, and it is difficult to answer generally a question which may be answered in various ways. If the Honourable Member will put a specific question in regard to a particular State I will find out for him.

Shri H. V. Kamath: Has the attention of Government been drawn to a statement made by Mr. Dhebar, the Prime Minister of Saurashtra to the effect that there have been alarming reports of misappropriation of certain property by certain rulers of Kathiawar on the eve of their merger into Saurashtra, and that he has instanced the case of the ruler of Gondal who has converted a hill containing coal into private property?

Mr. Speaker: I do not think these questions can be permitted here.

Shri Baldeo Swarup: Is the amount of the privy purse fixed once for all or is it liable to be adjusted according to increase and decrease of the income of the State every year?

The Honourable Pandit Jawaharlal Nehru: I believe it is fixed on some percentage, but I cannot say for certain without making further inquiries.

QUALIFICATIONS FOR OFFICERS' CADRE IN ROYAL INDIAN NAVY

1200. *Shri M. Ananthasayanam Ayyangar: (a) Will the Honourable Minister of Defence be pleased to state what are the minimum age and educational qualifications prescribed for direct recruitment to the officers' cadre in the Royal Indian Navy?

(b) Are these qualifications relaxed in particular cases; and, if so, under what circumstances?

(c) How many of these officers are under-graduates?

(d) What is the method and procedure of recruitment adopted?

(e) Are there any Boards for selection of officers? If so, how many such Boards are there?

(f) How are they constituted and where do they meet?

The Honourable Sardar Baldev Singh: (a) The minimum age is 19 and educational qualification, a University Degree in Civil or Electrical Engineering or equivalent technical qualifications.

(b) If the Honourable Member is referring to minimum qualifications, the answer is no. The upper age limit of 28 for direct recruitment can however be relaxed in the case of candidates of exceptional merit and outstanding qualifications.

(c) No direct appointment has so far been made, but, as I have already stated, the minimum educational qualification is University Degree or equivalent qualification of which no relaxation is permissible.

(d) Applications are invited through the Press and on receipt are scrutinised by technical officers in Naval Headquarters. Those considered suitable are called up for interview by a Services Selection Board, on whose recommendations final selection is made.

(e) Yes. There are three such Boards.

(f) The constitution and venue of the Boards are as follows:

President	1
Deputy President	1
Senior Group Testing Officer	1
Group Testing Officers	2
Psychiatrist	1
Technical Officer (Psychologist)	1

In addition a Naval Officer is co-opted when selecting officers for the Royal Indian Navy.

Venue: Meerut, Bareilly and Bangalore.

Pandit Lakshmi Kanta Maitra: Have the facilities for recruitment been expanded so far?

The Honourable Sardar Baldev Singh: Yes, Sir.

Seth Govinddas: Are the degrees of such institutions as the Gurukul at Kangri and the Kashi Vidyapith also taken into consideration when these appointments are made?

The Honourable Sardar Baldev Singh: I cannot say without notice.

Pandit Lakshmi Kanta Maitra: Does the Honourable Minister's department send out circulars to the different universities to send out their people for recruitment to the Royal Indian Navy?

The Honourable Sardar Baldev Singh: I think this is being done. Advertisements are certainly made in all papers in all the provinces; if this is not done, I will bear that suggestion in mind.

Prof. N. G. Ranga: Have Government considered the impossibility of large classes of people in this country achieving the minimum qualification of a degree or an equivalent qualification in technical matters by the time the young men reach the age of 19?

The Honourable Sardar Baldev Singh: I think that is given full consideration, but I could not say off-hand whether the suggestion made by the Honourable Member is not worth giving further consideration, but the minimum age is 19.

Prof. N. G. Ranga: What is the maximum age?

The Honourable Sardar Baldev Singh: The upper age limit, as I have stated, is 28 for direct recruitment; this may be relaxed.

Pandit Lakshmi Kanta Maitra: How many headquarters are there for this recruitment?

The Honourable Sardar Baldev Singh: There are several headquarters in different parts of the country, and I have not had any complaints from any part of the country or from any member. Enough recruitment facilities exist all over the country.

Pandit Lakshmi Kanta Maitra: May I know whether any special facilities have now been provided and whether there has been any expansion beyond what used to prevail during the British administration?

The Honourable Sardar Baldev Singh: I have already said that facilities have been expanded; I cannot give details without making further inquiries.

Dr. P. S. Deshmukh: What is the scale of pay that is offered to these recruits at the present time?

The Honourable Sardar Baldev Singh: I shall require notice of that question.

Shri V. C. Kesava Rao: May I know whether the selection boards tour the country and then select candidates?

The Honourable Sardar Baldev Singh: No, Sir.

Shri Deshbandhu Gupta: In view of the fact that the degrees of Kashi Vidyapeeth and Gurukul at Kangri are recognised by the U. P. Government, will the Government of India also recognise them for purposes of this recruitment?

The Honourable Sardar Baldev Singh: I will have that examined.

Prof. Shibban Lal Saksena: May I know if any of those people who were already in the officers' cadre have been demobilised after this war?

The Honourable Sardar Baldev Singh: After the last war, yes; after the 15th August, no.

Shri M. Ananthasayanam Ayyangar: With reference to the reply to part (c) of the question, may I know what is the qualification which is considered as equivalent to a university degree?

The Honourable Sardar Baldev Singh: I cannot give a reply off-hand; if the Honourable Member is anxious to know the details I am prepared to give them to him.

Pandit Lakshmi Kanta Maitra: Are the political antecedents of candidates examined in making this recruitment?

The Honourable Sardar Baldev Singh: No, not now.

Prof. Shibban Lal Saksena: In view of demobilisation after the war and new recruitments being made, will Government consider the question of taking those people who were officers before in the Navy?

The Honourable Sardar Baldev Singh: I have already made it clear several times in this House that all those officers who are eligible and are found fit are being taken.

Shri M. Ananthasayanam Ayyangar: May I know how these boards are constituted?

The Honourable Sardar Baldev Singh: They are constituted by the Department. It mostly depends on administrative convenience: as far as I know there are about six or seven boards working in different parts of the country.

Pandit Lakshmi Kanta Maitra: In view of the existence subversive elements in the country, do Government propose to look into the political antecedents of people henceforth before they are finally selected for appointments? I do not refer to political activities during British rule but to recent developments in the country which constitute a threat to peace and tranquillity.

The Honourable Sardar Baldev Singh: I think that aspect of the question is always borne in mind.

PROMOTION OF RATINGS AS OFFICERS

1201. ***Shri M. Ananthasayanam Ayyangar:** (a) Will the Honourable Minister of Defence be pleased to state whether there are any ratings who are promoted as officers? If so, how many such men are there?

(b) Is there any proportion fixed in the number of officers to be directly recruited and to be promoted from among ratings?

(c) What are the scales of pay for the highest ratings and the lowest warrant officer?

(d) What is the reason for such a difference in their scales of pay?

The Honourable Sardar Baldev Singh: (a) Yes. Twelve ratings have been granted permanent regular commissions in the Royal Indian Navy, while ten more have been selected to undergo a course, due to commence shortly, with a view to granting them permanent commissions.

(b) No.

(c) I lay a statement on the table of the House.

(d) The difference in the two scales of pay is primarily due to the different nature and responsibility of their duties. Further, the warrant officer, unlike the rating, does not get free food, clothing and accommodation.

STATEMENT

Pay and allowances admissible to the lowest warrant Officer in the Royal Indian Navy.

	Rs. P. M.
Pay	325
Expatriation Allowance.	50
Dearness Allowance	70 if married. 40 if single.
Compensatory Allowance at Bombay and Calcutta.	50

Pay and allowances admissible to the highest rating in the Royal Indian Navy.

	Rs. P. M.
Pay	240
Good Conduct pay for one badge	3
" " two badges	6
" " three badges	9
Dearness Allowance*	25
Compensatory Allowances—	
(i) at Bombay & Calcutta	8/12/-
(ii) Madras, Hyderabad (Deccan), Lahore, Ahmedabad, Delhi, Karachi and Cawnpore	5
Expatriation Allowance	20

*In addition, ratings are entitled to the following provisions in kind free of charge —

- (i) Accommodation, fuel and light;
- (ii) Clothing, and
- (iii) Rations.

Shri M. Ananthasayanam Ayyangar: May I ask the Honourable Minister if the minimum qualifications are insisted upon in the case of promotion from ratings to officers grade? In answer to the previous question the Honourable the Defence Minister said that certain minimum qualifications were prescribed. Are those minimum qualifications insisted upon in the matter of promotion from ratings to officers' grade?

The Honourable Sardar Baldev Singh: Yes, I think so, Sir.

Shri M. Ananthasayanam Ayyangar: Will the Honourable the Defence Minister kindly make enquiries. He will then find out that the minimum qualifications are not in practice insisted upon at all.

The Honourable Sardar Baldev Singh: I believe there are certain minimum qualifications for promotions laid down. It is difficult for me to say what those minimum qualifications are.

Shri M. Ananthasayanam Ayyangar: May I know from the Honourable Minister whether the pay of the highest rating is Rs. 200 less than the pay of an officer, and if, so, why there should be such wide difference?

The Honourable Sardar Baldev Singh: The information available with me at present shows that the pay of a warrant officer is Rs. 325 per month and the pay of a rating—I mean the highest paid rating—is Rs. 240. That shows a difference of about Rs. 100 or a little less than that.

Shri V. C. Kesava Rao: May I know, Sir, if in some cases the pay of a warrant officer is more than the pay of a Commissioned officer?

The Honourable Sardar Baldev Singh: Not to my knowledge.

Shri M. Ananthasayanam Ayyangar: In reply to part (b) of the question the Honourable Defence Minister said that there is no proportion fixed in the number of officers to be directly recruited and to be promoted from among ratings? If then no such proportion is fixed, how are they chosen or promoted from one cadre to another?

The Honourable Sardar Baldev Singh: On considerations of merit. Those who are found suitable are promoted.

Prof. N. G. Ranga: Are sufficient steps being taken to see that there is no invidious discrimination in the matter of promotion?

The Honourable Sardar Baldev Singh: It is very difficult to be absolutely sure on that point. There may be some such cases, but, as far as possible, selections are made on consideration of merit only.

Pandit Lakshmi Kanta Maitra: Has there been any recent revision in the scales of pay of these people?

The Honourable Sardar Baldev Singh: The scales of pay are those which are laid down by the Pay Committee.

BAD FOOD, CLOTHING AND OTHER DISABILITIES OF RATINGS

1202. ***Shri M. Ananthasayanam Ayyangar:** (a) Will the Honourable Minister of Defence be pleased to state whether Government are aware that the ratings are still having bad food owing to the bad quality of provisions supplied and the inexperience of the cooks employed?

(b) Is it a fact that the ready-made clothes supplied to the ratings are of inferior quality, unsuitable in size and badly stitched necessitating in re-modelling and re-stitching by the ratings?

(c) Are ratings not allowed to move about in civilian clothes even on occasions of religious festivals and if so, why is this restriction imposed?

(d) Are Government aware that all Communication Ratings are now asked to clean and wash the plates of senior ratings in the place of seamen who were doing such work previously?

(e) Is it a fact that some Communication Ratings were punished by warrant and were sent to jail at Cochin for refusing to wash the plates of senior ratings? If so, do Government propose to take steps in this connection?

The Honourable Sardar Baldev Singh: (a) No, Sir.

(b) The material used for ready-made clothes is by no means inferior. It is the best that could be had in the days of acute cloth shortage.

As regards size, it will be appreciated that these ready made clothes are produced on a mass scale, so that it is difficult to ensure in every case individual fitting or complete satisfaction. Garments are stitched in four different sizes, which are considered adequate. It is, however, possible that some odd sized ratings have had some difficulty in finding garments to suit their requirements or it was not possible for every store to stock all the sizes. In such cases provision exists for alteration at Government expense.

The quality of stitching is considered above average.

With the return of normality and greater availability of cloth, it will be possible to improve both the quality of material and the stitching.

(c) Ratings are permitted to attend religious festivals in civilian clothes.

(d) Junior ratings of all branches in the Navy have always performed this duty.

(e) One rating at Cochin was punished by warrant for such refusal, as it constituted wilful disobedience of a lawful command. No action on the part of Government is called for in the circumstances.

Shri M. Ananthasayanam Ayyangar: May I ask the Honourable the Defence Minister whether, after notice of my question was received by him, he has sent anybody to examine the quality of food supplied to ratings and also find out if the cooks are really capable in trying to convert the raw material into cooked food?

The Honourable Sardar Baldev Singh: I would refer the Honourable Member to my reply to a later question which is coming up.

Shri M. Ananthasayanam Ayyangar: I would like to have an answer so far as my question is concerned, so that I may put supplementaries, if necessary.

Is not Government aware that two years back during the previous regime, ratings went on strike on account of the bad quality of food supplied to them?

The Honourable Sardar Baldev Singh: Yes that was one of the reasons for the strike.

Shri M. Ananthasayanam Ayyangar: How, then, does it happen that the Honourable Minister does not get enquiries made with a view to finding out whether the quality of food supplied to ratings has improved or not?

The Honourable Sardar Baldev Singh: As far as the quality of food is concerned, there has been definite improvement, and a detailed reply to this question will be given in connection with another question.

Pandit Lakshmi Kanta Maitra: Is it under the contemplation of Government to introduce any change in the system of supply of uniforms and garments to the naval personnel.

The Sardar Baldev Singh: Not for the present.

Prof. N. G. Ranga: With regard to the answer to part (d) of the question, does the practice of the Communication Ratings being asked to clean and wash the plates of senior ratings obtain in the British Navy.

The Honourable Sardar Baldev Singh: I could not say off hand; but I think the system in the Indian Navy is based on the system obtaining in the British Navy.

Prof. N. G. Ranga: In view of the fact that some of the junior ratings have resented this and have gone to the extent of courting imprisonment, will Government consider the advisability of doing away with this sort of menial service?

The Honourable Sardar Baldev Singh: Sir, these questions are considered from time to time, and particularly after the last Mutiny all these questions were carefully reconsidered and suitable amendments made.

Shri M. Ananthasayanam Ayyangar: Is it not a fact, Sir, that this work of cleaning and washing the plates of senior ratings which the Communication Ratings are now asked to do, were previously done by seamen?

The Honourable Sardar Baldev Singh: As I have already stated junior ratings in all branches of the Navy have always performed this duty. This was the normal practice and it still continues. There is nothing new about it.

Shri M. Ananthasayanam Ayyangar: May I ask the Honourable Minister whether it is not a fact that warrant officers are supplied cloth to be stitched into uniforms. Why could not this system be followed in the case of ratings too?

The Honourable Sardar Baldev Singh: The normal practice is to supply ready-made uniforms and if they do not fit in some cases they are suitably altered at Government expense.

Shri M. Ananthasayanam Ayyangar: I have pointed out certain complaints which exist about food, clothing and other matters. It is commonly known that two years back there was a mutiny on account of certain grievances on this score. Will the Honourable the Defence Minister kindly look into these matters, with a view to finding out whether they do exist, and if so, take suitable action.

The Honourable Sardar Baldev Singh: Sir, as I have already stated this matter was fully gone into after the last mutiny and certain amendments made, but I will have the matter further looked into.

CONFIRMATION OF TEMPORARY EMPLOYEES OF CENTRAL ORDNANCE DEPOT,
JUBBULPORE

1203. *Seth Govinddas: (a) Will the Honourable Minister of Defence be pleased to state whether it is a fact that the employees of the Central Ordnance Depot, Jubbulpore, who are working ever since the Depot was opened, are still temporary employees?

(b) If so, what is the policy of Government with regard to their confirmation?

The Honourable Sardar Baldev Singh: (a) Presumably the Honourable Member is referring to the category of employees known as Extra Temporary employees. Many of them who have been working since the Depot was opened are still temporary.

(b) The question of altering their terms and conditions of service in the light of the Central Pay Commission's recommendations including the question of making at least a proportion of them permanent is under consideration.

Seth Govinddas: Is it not a fact that these employees have been in service for years past and still they are considered to be temporary?

The Honourable Sardar Baldev Singh: Yes, Sir, some of these officers have been in service for a number of years and they are still temporary. But as I have already stated the question is being reconsidered now.

Seth Govinddas: May I know what period Government is contemplating a temporary servant must serve before he can be made a permanent servant?

The Honourable Sardar Baldev Singh: According to the present system, as long as a vacancy does not occur in the permanent cadre, the employees must be maintained as temporary officers.

CLOSING DOWN OF ARMAMENT SPECIAL TRAINING CELL IN CENTRAL ORDNANCE DEPOT, JUBBULPORE

1204. *Seth Govinddas: (a) Will the Honourable Minister of Defence be pleased to state whether it is a fact that there is a fully equipped armament special training cell in the Central Ordnance Depot, Jubbulpore?

(b) Is it a fact that the Armed Forces Headquarters, Delhi have passed orders to close this Depot?

(c) If so, do Government propose to give the reasons for closing down this cell?

The Honourable Sardar Baldev Singh: (a) Yes,

(b) No.

(c) Does not arise.

Seth Govinddas: Is it not a fact that this cell is going to be abolished?

Mr. Speaker: He has already answered that.

The Honourable Sardar Baldev Singh: I have already said "(a) Yes, (b) No."

Prof. N. G. Ranga: At what stage is this matter? Or has it been on record at all?

The Honourable Sardar Baldev Singh: It was there and is still there.

Prof. N. G. Ranga: Are we to understand that Government are actively considering the question of closing this particular cell?

The Honourable Sardar Baldev Singh: This has been amalgamated with the other departments in order to save expenditure.

Seth Govinddas: Have the Government made any enquiries after they received my question, because I had given this question on definite information?

The Honourable Sardar Baldev Singh: The reply I have is after making due enquiries.

Prof. N. G. Ranga: Is it that this information is a little in advance of the Government's decision?

POLICE *re* DEARNESS ALLOWANCE WAR BONUS AND GRAIN COMPENSATION TO STAFF OF C. O. D., JUBBULPORE

1205. *Seth Govinddas: (a) Will the Honourable Minister of Defence be pleased to state the policy of Government as regards the dearness allowance, war-bonus and the grain compensation given to the staff of the Central Ordnance Depot, Jubbulpore?

(b) What are the reasons for the difference, if any, in the facilities given to the clerical and the industrial staff of the above Depot?

The Honourable Sardar Baldev Singh: (a) Employees in the Central Ordnance Depot, Jubbulpore, are governed in respect of dearness allowance and grain compensation by the orders issued by the Ministry of Finance in respect of all Central Government employees.

A copy of the instructions governing war bonus is placed on the table of the House.

(b) No distinction exists in this matter between the two categories of personnel mentioned.

STATEMENT

(1) Army Instruction (India) No. 228 of 1942

*Grant of bonuses to temporary personnel employed under the Defence Department
(M.G.O. Services)*

Every civilian non-gazetted temporary employee of the M.G.O. Services will be entitled to a bonus, irrespective of whether he was entertained prior to the outbreak of war or during the war, provided that:

- (a) he is not otherwise entitled to a bonus;
- (b) he has rendered approved service without a break until discharged, and not less than one year's approved service before the date of the cessation of hostilities;
- (c) he is in fact discharged within one year after the date of the cessation of hostilities.

2. The amount of the bonus will be one day's pay for each completed month of continuous employment from the 3rd September 1939 to the date of the cessation of hostilities, and will be paid on discharge after the end of the war.

3. The right to contribute to a Provident Fund, whether exercised or not, will not be a bar to the grant of the bonus.

4. The term "M.G.O. services" includes:

- (i) Arsenal, Depots and 3rd Line Workshops.
- (ii) Inspectorates of Armaments and Mechanisation and Inspectorates under the control of the Controller General of Inspection.
- (iii) Tank Development Board.

5. Clerical personnel whose employment is not regulated by the Factories Act, 1934, are not eligible for the bonus.

(2) Army Instruction (India) No. 282(a) of 1946.

Grant of Bonus temporary employees of the War Department

The following is in amplification of A.Is. (I) Nos. 228 of 1942 and 261 of 1943 which have since been cancelled with effect from 1st November 1945 by A.Is. (I) Nos. 1219 and 1220 of 1945.

1. *Continuous employment.*—(a) This means the aggregate of "completed months" between 3rd September 1939 to 31st October 1945, both days inclusive.

(b) An employee must have a minimum aggregate of 12 "completed months" before he qualifies for bonus.

2. "Completed month".—This means that an employee has been paid for—

- (a) A calendar month in respect of monthly rated employees. A calendar month is from the first to the last day of the same calendar month, but, as an exception, from 3rd to 30th September 1939 will be deemed to be a full calendar month.
- (b) 18 days in a calendar month in respect of a daily rated employee.
- (c) Sanctioned paid or unpaid leave of any kind will be regarded as duty for the purpose of a "completed month".

3. *Break in service.*—(a) This means that an employee's name has been struck off the rolls as services terminated or as discharged from service and that the break continues until he is re-engaged.

(b) A re-engaged employee will not be required to commence his qualifying period [see 1(b) above] from the date of re-engagement. He will reckon "completed months" prior to the break.

(c) The period during which an individual is "stood off", provided this is in Government's interest, will not constitute a break in service. If an employee works less than 18 days in a calendar month because he is "stood off", that month will not reckon as a "completed month" for bonus.

4. *Number of months.*—This means the aggregate of "completed months", including the qualifying minimum period of twelve months, and the employee will be paid bonus for all the "completed months" except as stated in para. 5 below.

5. *Absence without leave.*—This means all unauthorised absence during which a man's name has been removed from the Muster Roll, Pay Roll or other attendance or pay documents. An employee shall forfeit two "completed months" service for bonus for each such absence. For example, if a man had a total of 13 "completed months" service in which his name had once been struck off the Muster Roll, he will be paid bonus for 11 months only.

6. *One day's pay.*—This means pay as defined in C.S.B. The rate will be that which an individual received on the 31st October 1945 or the date of discharge whichever is earlier. It excludes dearness/war allowance and overtime pay.

7. *Extensions.*—The provisions of A.Is. (I) Nos. 228 of 1942 and 281 of 1943 are extended with retrospective effect from 3rd September 1939 to all daily and monthly rated clerical personnel, who are not entitled to a bonus or gratuity or other benefits of similar nature under other rules, irrespective of whether they are governed by the Factories Act or not. The right to contribute to a Provident Fund whether exercised or not will not however be a bar to the grant of the bonus.

8. No past transactions involving the payment of bonus whether in accordance with the above instructions or not will be reopened.

9. This Army Instruction (India) supersedes any instructions which conflict with it in A.Is. (I) 288 of 1942 and 281 of 1943.

POLICY RE DISCHARGE AND RECRUITMENT OF EMPLOYEES IN CENTRAL ORDNANCE DEPOT, JUBBULPORE.

1206. *Seth Govinddas: (a) Will the Honourable Minister of Defence be pleased to state the policy of Government regarding the discharge and recruitment of employees in the Central Ordnance Depot, Jubbulpore?

(b) Is it a fact that the old experienced staff is being gradually replaced by new recruits?

(c) If so, what are the reasons for the discharge of experienced hands?

The Honourable Sardar Baldev Singh: (a) The policy of Government regarding the discharge of employees in the Central Ordnance Depot, Jubbulpore, is exactly the same as for all other employees of the Central Government. I lay on the table of the House copies of Ministry of Home Affairs Office Memoranda No. 70/49/45-Ests, dated the 7th July 1945, and No. 31/3/47-Ests(S), dated the 13th September 1947, which set out the policy of Government in this matter.

As regards recruitment to gazetted posts, this is done ordinarily in consultation with the Federal Public Service Commission while non-gazetted posts are filled by the Chief Ordnance Officer. Daily-rated employees are recruited locally.

(b) No.

(c) Does not arise.

Copy of Ministry of Home Affairs Memorandum No. 70/49-45-Ests., dated the 7th July 1945
SUBJECT:—Procedure for selection of temporary employees for appointment to the quota of the 30 per cent. of reserved vacancies set apart for them.

Reference Council decisions conveyed in the Home Department Office Memorandum No. 70/12/42-Ests., dated the 29th June 1942 as amended by the Home Department Office Memorandum No. 70/12/42-Ests., dated the 8th September 1943, reserving 30 per cent. of the vacancies not filled permanently during the war to be filled up after the war from among candidates who have held them on a temporary basis during the war and who are otherwise suitable and eligible for appointment. Home Department have been considering the mode in which these reserved vacancies should be filled and have provisionally reached the following conclusions:

(1) All temporary employees of Government who have done well in their temporary service should be allowed to complete, subject to the qualifications regarding age and education, for the reserved vacancies, irrespective of whether they were selected for temporary service by the Federal Public Service Commission or not. The Federal Public Service Commission suggest that only those candidates who were appointed by virtue of their having qualified for appointment at a competitive examination or selection held by the Federal Public Service Commission should be permitted to compete for the vacancies but

the Home Department consider that it would penalize unfairly those candidates who for no fault of their own were appointed direct by Departments under Regulation 4(c) of the Federal Public Service Commission (Consultation by the Governor General) Regulations.

(2) For this purpose Departments should be asked to maintain (if this is not being done already) regular confidential reports in respect of their temporary employees on the same lines as they are being maintained in respect of corresponding grades of permanent employees and to classify them as follows:

- (a) Outstanding and for whom every effort should be made to find a permanent post;
- (b) definitely fit for permanent appointment if a vacancy exists; and
- (c) the rest.

(3) Departments should also be requested to divide reserved vacancies into groups of similar employment and similar grade. And the above classification should have reference to employment in the group and grade in which the officer concerned is temporarily employed. It will be for the appointing authority to decide whether the temporary employment of any particular candidate falls within the group and grade in which the vacancy exists. Temporary employees should be eligible to compete for vacancies in the particular group and grade in which they were employed, whether vacancies are in the Department in which they served or not, provided that—

- (a) after deducting their temporary service their age does not exceed the maximum age laid down for direct appointment;
- (b) they possess the prescribed minimum educational qualifications; and
- (c) they come under clause (a) or (b) in the classification made in pursuance of sub-para. (2) above.

(4) When retrenchment begins, persons coming under clause (c) in sub-para. (2) should be the first persons to be got rid of.

(5) Appointments to the reserved vacancies should be made by the authority that would have made the appointment if there had been no war. As regards the method of selection a competitive examination would generally, for obvious reasons, be unsuitable. Presumably selection would have to be made on the basis of confidential reports on candidate's work plus length of temporary service supplemented by an interview. It may, however, be desirable, e.g., in the case of clerical posts, to have an examination—the subject for the examination being confined to the work that the candidates have been doing.

2. The undersigned is directed to request that the concurrence or comments of the Finance, etc., Department on the above proposals may be communicated to the Home Department as early as possible, in any case not later than the 31st July 1945.

(Sd.) P. V. R. RAO,

Deputy Secretary to the Government of India.

No. 70/49/45-Esta.,

Dated New Delhi, the 7th July 1945.

To

All Departments of the Government of India (including Additional Financial Adviser, Supply Finance)/Joint Financial Adviser (Munitions Production). Calcutta/Joint Financial Adviser (Food)/and the Joint Financial Adviser (Cotton Textiles).

No. 70/49 Ests.,

Dated New Delhi, the 7th July 1945.

*Copy forwarded for information and necessary action to the Chief Commissioner, Delhi; Ajmer-Merwara/Coorg; the Political Department; the Secretary, Governor General (Public); Secretary, Governor General (Reforms); the Private Secretary to His Excellency the Viceroy; the Military Secretary to His Excellency the Viceroy; the Establishment Officer to the Government of India; the Secretary, National Defence Council; the Director, Intelligence Bureau, the Civil Defence Branch and the Crown Finance Department.

By order,

(Sd.) P. V. R. RAO,

Deputy Secretary to the Government of India.

Copy of Ministry of Home Affairs Office Memorandum No. 31/3/47-Ests.(S), dated the 13th September 1947.

SUBJECT:—Discharge of temporary employees cancellation of the orders regarding the application of communal rules to—

In supersession of the orders contained in the Home Department Office Memorandum No. 31/18/45-Ests.(S), dated the 2nd October 1945, the Government of India have decided that, whenever it is necessary to retrench temporary employees, merit should be the guiding criterion in determining the persons to be retrenched and that communal considerations should not into account.

2. For the purpose of determining the persons to be retrenched, the lists prepared in pursuance of the instructions contained in para. 1(2) of the Home Department Office Memorandum, No. 70/49/45-Ests., dated the 7th July 1945, will be utilised. It is essential to ensure that these lists are prepared in a manner so as to secure impartial judgment of the capabilities of Government Servants and to preclude favoritism. Accordingly, where these lists have already been prepared, they should be scrutinised and rearranged, where necessary, by an appropriate Departmental Promotion Committee set up under the Home Department Office Memorandum No. 33/46-Ests.(R), dated the 17th June 1946, and where the lists have not already been prepared, they should be prepared by such Committees. Persons in category (c) will be retrenched before persons in category (b) and persons in category (b) will be retrenched before persons in category (a). In each category retrenchment will be on the basis that the persons at the bottom of the list will go out first.

3. These orders will come into force at once.

(Sd.) P. V. R. RAO,
Joint Secretary to the Government of India

To

All Ministries, Cabinet Secretariat and etc.

Seth Govinddas: Has the Government not received any complaints with respect to the latter kind of service that experienced people are being dismissed from there and that the new recruits who are being appointed are really spoiling the work while serving in their place?

The Honourable Sardar Baldev Singh: I have not received any information but if the Honourable Member will let me know of certain specific cases, I will enquire into them.

Pandit Lakshmi Kanta Maitra: Is not it a fact that a large number of highly trained technical personnel are being discharged by non-Indian people on the ground that they are surplus in this depot?

The Honourable Sardar Baldev Singh: It is true that a large number of these technical personnel was discharged after the end of the last war, but wherever there is a shortage, they are being recruited again.

OFFICERS OF R. I. E. HOLDING PERMANENT, SHORT SERVICE AND EMERGENCY COMMISSIONS.

1207. ***Shri Deshbandhu Gupta:** (a) Will the Honourable Minister of Defence be pleased to state the number of R.I.E. Officers holding (i) Permanent Commission; (ii) Short Service Commission; and (iii) Emergency Commission?

(b) How many of them, in each of the above categories, possess the required qualifications as laid down in the case of departmental officers?

(c) Is it a fact that pre-1931 employees of the Military Engineering Service were required to pass a qualifying departmental examination before being considered for appointment as permanent Sub-Divisional officers and for promotion to the ranks of higher grade Officers irrespective of their possessing any other technical qualifications?

(d) Is it a fact that recently some new rules have been enforced requiring additional qualifications for promotion of those Military Engineering Service employees who had passed the departmental examination but did not possess any degrees?

(e) If so, what are the reasons for requiring additional qualifications for their promotion?

(f) Will the rules referred to in part (d) above apply to the new entrants only, and not affect the employees who entered service prior to the enforcement of these rules and regulations?

The Honourable Sardar Baldev Singh: (a) R. I. E. Officers holding.

- | | |
|-------------------------------------|-----|
| (i) Permanent Commissions..... | 186 |
| (ii) Short Service Commissions..... | 150 |
| (iii) Emergency Commissions..... | 281 |

(b) By "departmental officers" the Honourable Member is probably referring to Civilian Officers of the M.E.S. The qualifications laid down for such officers are not applicable to commissioned officers of the R.I.E. and the information as to how many of the later have the qualifications required of departmental officers is not readily available.

(c) Persons who held the prescribed technical qualifications i.e., a degree in Engineering were not required to appear at departmental tests.

(d) No.

(e) and (f). Do. not arise.

Shri Deshbandhu Gupta: May I know, Sir, whether in regard to the reply given to part (c) the Honourable Minister has referred to the rules requiring that every person would have to undergo that departmental examination?

The Honourable Sardar Baldeo Singh: I have made it clear that persons who held the prescribed technical qualifications, that is a degree in engineering, were not required to appear at the departmental test.

Prof. N. G. Ranga: What is the position in the case of those people who do not possess a degree but who gain quite a lot of practical experience in the course of their service. Are they going to be treated as good as those who possess degrees, or are they going to be condemned to a lower grade?

The Honourable Sardar Baldev Singh: All those who do not possess a degree, have to appear at the departmental test.

Shri Deshbandhu Gupta: Is it a fact that recently, according to a new circular, those who had qualified themselves by sitting for the departmental examination are today not eligible for higher posts, and that their juniors are being promoted in supersession to them?

The Honourable Sardar Baldev Singh: That again depends entirely on the merits and the qualification of the candidates who have gone through the departmental tests. It is just possible that some of these officers may have been superseded. But it is very difficult for me to give a definite reply to this question.

Shri Deshbandhu. Gupta: Have any instances come to the notice of the Honourable Minister of cases where persons, who have been for 20 years in the line and have all along been promoted, are now being superseded because they do not hold a degree, whereas they have qualified themselves for the post by sitting for the departmental examination?

The Honourable Sardar Baldev Singh: Some complaints have been received and they are being investigated.

Pandit Lakshmi Kanta Maitra: Is there any Committee in the Department of the Honourable Minister which goes into the cases of the personnel of the M.E.S.?

The Honourable Sardar Baldev Singh: As I have already stated in reply to this question there is a departmental committee.

Pandit Lakshmi Kanta Maitra: I wanted to know whether this committee is really an active committee and whether it goes into and examines the cases of these people.

The Honourable Sardar Baldev Singh: There is no regular departmental committee, but the test is laid down and the test is held periodically and all those who pass are eligible for promotion.

Pandit Lakshmi Kanta Maitra: Is it a fact that many members of the M.E.S. who have been discharged have not yet got their dues settled by the Government of India and has the Honourable Minister received any representation from any organizations regarding this?

The Honourable Sardar Baldev Singh: It is very difficult for me to give a reply offhand to the Honourable Member's question. But there may be cases of this nature.

Pandit Lakshmi Kanta Maitra: Has the Honourable Minister got representations from certain organizations?

The Honourable Sardar Baldev Singh: I could not say offhand. A number of representations were received and there may be some such representation among these.

Pandit Lakshmi Kanta Maitra: Will the Honourable Minister kindly look into it?

Mr. Speaker: If the representation has been received he will certainly look into it.

Shri Deshbandhu Gupta: May I know whether the reply of the Honourable Minister means that a person who does not hold a degree but is otherwise qualified, will not be superseded for the simple reason that he does not hold a degree?

The Honourable Sardar Baldev Singh: If my Honourable friend will follow the answer that I have given in reply to part (c) of his question, he will see that I have stated that persons who hold the prescribed technical qualifications, that is a degree of engineering are not required to appear at the departmental test. All others have to go through the departmental test and it is only when they pass it are they considered for further promotion.

Dr. P. S. Deshmukh: May I know if any expansion of this department is contemplated? And if so, how many vacancies exist under each category mentioned here?

The Honourable Sardar Baldev Singh: I do not know what the Honourable Member means by "expansion of this department". Its expansion depends on the size of the Army. If the strength of the Army is increased, then this department naturally increases.

Dr. P. S. Deshmukh: My question was whether the number of people serving in these various categories was enough for, or less than the requirements.

The Honourable Sardar Baldev Singh: I would require notice of that question.

RECRUITMENT TO ENGINEERING OFFICERS' APPOINTMENTS FROM PERMANENT PERSONNEL.

1208. ***Shri Deshbandhu Gupta:** (a) Will the Honourable Minister of Defence be pleased to state whether it is a fact that the Minister of Defence laid down in February, 1947 that a minimum of 50 per cent of the Engineering officers' appointments would be filled up at once from the then existing permanent personnel?

(b) If the answer to part (a) above be in the affirmative, is it a fact that the policy was not actually implemented?

The Honourable Sardar Baldev Singh: (a) No.

(b) Does not arise.

DIFFERENT SCALES OF SALARIES OF VARIOUS ENGINEERING OFFICERS' CADRE IN MILITARY HOLDING SAME POSTS.

1209. *Shri Deshbandhu Gupta: Will the Honourable Minister of Defence be pleased to state whether it is a fact that there is a great difference between the scales of salaries of departmental Civilian Engineering Officers, Military Officers and Officers on contract while holding the same post? If so, why?

The Honourable Sardar Baldev Singh: I lay a statement on the table of the House showing the salaries admissible under the revised Pay Code to military and civilian officers of the Military Engineering Service. There is no appreciable difference in the scales of pay applicable to military and civilian officers in the grades of Executive and Assistant Executive Engineer. The difference in the scales of pay admissible to Superintending Engineers is relatable to the varying prospects of promotion and the age at which officers in the two categories are likely ordinarily to be appointed to a particular grade. For example, while a civilian engineer in the Military Engineering Service has ordinarily no prospects of promotion beyond the grade of Superintending Engineer, there are higher posts open to his military counterpart.

As regards officers on contract a few have been engaged to meet the temporary shortage of officers in the grades of Executive Engineer and Assistant Executive Engineer, and these have been appointed in the scale of Rs. 400-50/2-800 plus a charge allowance of Rs. 50 per mensem when holding a post of Executive Engineer. There is one contract officer in the grade of C.R.E. and he is given a charge allowance of Rs. 200 per mensem.

Statement

Scale of Pay admissible to

Grade	Military Officers	Civilian Officers.
	Rs.	Rs.
1. Superintending Engineer. (RIE/SORIE (Lt. Col);SSW/STE.	1100—50—1400	1300—60—1600.
2. Executive Engineer. DCRIE/GE/SORIE. 2nd Grade (Major)/Surveyor of Works/Tech. Engineer/Dy. Supdg. Engineer/Asstt Consulting Architect/Senior B.O.	700—50—1050	600—40—1000—1000—1050—1050—1100—1100—1150.
3. Asstt. Executive Engineer/ACRI/AGE Capt./SORIE/Asstt. Surveyor of Works/Asstt. Tech/Asstt. Supdg. Engineer.	450—50—600	350—350—380—380—30—590—EB—30—770—40—850.

Shri Deshbandhu Gupta: May I know whether it is not a fact that the pay of a contract officer works out to be more than that of a civil engineer and that at the moment the Government is paying much more on that account than it would pay otherwise?

The Honourable Sardar Baldev Singh: I have already stated that he is getting Rs. 200 per month as allowance and it is just possible that his pay is higher.

Shri Deshbandhu Gupta: Is it necessary to retain these contract officers even now when the war is over? All these were temporary posts after all?

The Honourable Sardar Baldev Singh: I think there were previously a number of officers on contract but at present, as I have stated, there is only one officer and I cannot say whether his services will be retained or it is proposed to dispense with his services after sometime.

Shri Deshbandhu Gupta: Will the Honourable Minister examine that particular case?

The Honourable Sardar Baldev Singh: Yes, Sir.

DISSATISFACTION AMONG CIVILIAN ENGINEERING OFFICERS RE RECRUITMENT TO HIGH APPOINTMENTS IN M. E. S.

1210. *Shri Deshbandhu Gupta: (a) Will the Honourable Minister of Defence be pleased to state whether it is a fact that high appointments of Engineers in the Military Engineering Service are being filled up by officers on contract and Royal Indian Engineers?

(b) If the answer to part (a) above be in the affirmative, what are the reasons for ignoring the claims of the departmental Engineering Officers?

(c) Are Government aware that there is a growing dissatisfaction among the civilian employees of the Military Engineering Service on this account?

(d) If so, what steps are being taken by Government to remove the same?

The Honourable Sardar Baldev Singh: (a) These appointments are filled by officers belonging to the following categories:

(i) R.I.E. (including permanent civilian employees of the Military Engineering Service who were granted commissions during the war), (ii) Civilian Assistant Engineers of the Military Engineering Service, and (iii) Officers on contract.

(b) It is not correct to say that the claims of the Departmental Engineering Officers have been ignored in the matter of promotion to high appointments in the Military Engineering Service. In fact in the grade of Commander, Royal Indian Engineers, which corresponds to Superintending Engineer, out of 10 appointments, 8 are at present held by Departmental Officers.

(c) No.

(d) Does not arise.

Shri Deshbandhu Gupta: Has the Honourable Minister received any representations on behalf of these departmental engineering officers to the effect that their claims are being disregarded and that they are being superseded by others?

The Honourable Sardar Baldev Singh: I do not remember having received any representation but I will look in to the matter.

DISPARITY IN LEAVE RULES APPLYING TO VARIOUS GOVERNMENT EMPLOYEES

1211. *Mr. B. K. Sidhva: Will the Honourable Minister of Finance be pleased to state:

(a) whether it is a fact that Government servants who entered service before the year 1931 are entitled to accumulate earned leave for more than three months and if so, what is the maximum fixed;

(b) whether it is a fact that those who entered service after the year 1931 are not allowed that privilege;

(c) whether it is a fact that the Central Pay Commission has recommended the privilege referred to in part (a) above to be accorded to those who entered service even after 1931;

(d) whether it is a fact that the new entrants are allowed to accumulate earned leave for a maximum period of 3 months; and

(e) if so, whether Government propose to remove this disparity and amend the leave rules accordingly and if not, why not?

The Honourable Shri R. K. Shanmukham Chetty: (a) Government servants who entered service before the 16th July, 1931 are governed by the leave rules in either the Civil Service Regulations or the Fundamental Rules. Under the Civil Service Regulations, officers are entitled to accumulate full pay leave upto four months while under the Fundamental Rules they can earn leave at the rate of 1/11th of duty without any limit.

(b) Except in the case of officers of non-Asiatic domicile in whose case the maximum period up to which earned leave could be accumulated is 150 days, those who entered service after 1931 could earn leave on full pay up to a maximum of 90 days only.

(c) The Central Pay Commission have recommended that Government servants may be permitted to accumulate earned leave up to 120 days generally and upto 180 days if the leave is spent out of India. This matter is under the active consideration of Government.

(d) The attention of the Honourable Member is invited to the reply to part (b) of this question.

(e) In regard to members of the Secretary of State's services who are governed by the more liberal leave rules, Government have, on the transfer of Power, given an assurance for the continuance of the same conditions of service regarding Pay, Leave, Pension etc. In view of this assurance it is not proposed to deliberalise the rules in regard to other officers in service who are old entrants, whose case cannot be fairly distinguished.

Mr. R. K. Sidhva: In reply to part (e) of the question it was stated that the Secretary of State's services are governed by more liberal leave rules and in view of the assurance given by the Government to continue the same conditions, they cannot do anything in the matter. I would like to know whether there are any other employees, apart from the Secretary of State's services, in whose case also this disparity exists?

The Honourable Shri R. K. Shanmukham Chetty: So far as the officers protected by the Secretary of State are concerned this assurance was given. There is no doubt that there are categories of Officers who are not legally entitled to this protection and yet because we have granted it to this class of officers, we thought that in equity we should give the others also the same concession.

Mr. R. K. Sidhva: As the disparity still exists, do the Government intend to remove that disparity?

The Honourable Shri R. K. Shanmukham Chetty: Disparity between whom?

Mr. Speaker: Between the Secretary of State's services and others who entered service before 1931 and those who entered service after.

The Honourable Shri R. K. Shanmukham Chetty: It is only in the case of old entrants who entered service simultaneously with these officers protected by the Secretary of State that this concession has been granted. The question does not arise in the case of any other officers at all.

Mr. R. K. Sidhva: Am I to understand that the question of disparity does not arise in the case of any other employees except in the case of the Secretary of State's services?

The Honourable Shri R. K. Shanmukham Chetty: I am not aware of it.

Mr. R. K. Sidhva: Will the Honourable Minister look into it?

Mr. Speaker: He has said already that he is not aware of it.

Shri V. C. Kesava Rao: Are temporary government servants come under these leave rules?

The Honourable Shri R. K. Shanmukham Chetty: There are special leave rules applicable to temporary government servants but I am not aware of them just at present.

Shri H. V. Kamath: In view of the fundamental changes that have occurred in the country after the 15th August 1947, do Government propose to level up or level down the fundamental rules of service for the same category or class of officers, so as to make the rules uniform?

The Honourable Shri E. K. Shanmukham Chetty: Barring this commitment that we have made at the time of the transfer of power our aim has always been and always will be to keep as far as possible uniform conditions without any disparity.

FRESH RECRUITMENT TO ARMED FORCES

1212. *Prof. N. G. Ranga: Will the Honourable Minister of Defence be pleased to state:

- (a) whether fresh recruitment to the armed forces is being made;
- (b) if so, whether it is for temporary service or permanent service; and
- (c) whether any preference is being given to ex-servicemen?

The Honourable Sardar Baldev Singh: (a) Yes.

(b) For both.

(c) Yes, if they are otherwise suitable.

Prof. N. G. Ranga: What has been the response for the three services, the army, navy and the air force?

The Honourable Sardar Baldev Singh: Quite satisfactory.

IMPLEMENTATION OF DR. PATTABHI SITARAMAYYA'S RESOLUTION RE DEVELOPMENT OF NATIONAL MILITIA

1213. *Prof. N. G. Ranga: (a) Will the Honourable Minister of Defence be pleased to state what steps have been taken to implement Dr. Pattabhi Sitaramayya's resolution on the development of national militia passed in the last session?

(b) Is any effort being made to co-ordinate the work of the Provincial Governments and that of the Government of India in building up National Guards, Frontier Guards and the National Militia?

(c) Do the Government of India propose to offer any financial assistance to Provincial Governments in this direction?

The Honourable Sardar Baldev Singh: (a) Government have taken steps to form a Territorial Force and I hope to announce Government's decision in the next few days. This, together with the National Cadet Corps, will, I trust, go a long way towards meeting the wishes of the House expressed in the course of the discussion on Dr. Pattabhi Sitaramayya's Resolution.

(b) The Territorial Force and the Frontier Defence Corps will both be centrally administered and financed, while Civic or Home Guards, which are intended to help the police in the maintenance of law and order, are the responsibility of the Provincial Governments. The functions of the Central and Provincial Forces are distinct and require no special coordination.

(c) No, Sir.

Mr. R. K. Sidhva: Will the announcement be made before the session is over?

The Honourable Sardar Baldev Singh: Yes, Sir.

Prof. N. G. Ranga: Will Government try to supply the provincial governments with the necessary equipment and arms that may be needed by them in order to equip their side of the forces?

The Honourable Sardar Baldev Singh: That is the practice.

Shri Deshbandhu Gupta: May I know.....

Mr. Speaker: Order, order. The question hour is over.

(b) WRITTEN ANSWERS

POSITION *RE* LOCAL SUPPLIES AND IMPORT OF QUININE IN INDIA

1214. *Prof. N. G. Ranga: (a) Will the Honourable Minister of Health be pleased to state the present position in India in regard to quinine—local supplies and imports?

(b) What steps are being taken to build up an adequate reserve stock?

(c) Are Government taking steps to regulate the production and distribution of quinine as between different provinces to ensure timely and adequate supplies to all provinces?

The Honourable Rajkumari Amrit Kaur: (a) The average annual production of quinine in India in the last three years was about 85,000 lbs. per year. Approximately 145,000 lbs. of quinine were imported into India during the last two years.

(b) There is at present a Central stock of about 120,000 lbs. of quinine. The question of maintaining an adequate reserve is borne in mind.

(c) The existing cinchona plantations in India are owned mainly by the Governments of West Bengal and Madras and they are making every effort to maintain and increase production. Equitable distribution of quinine to different Provinces is ensured by the Central Government allotting quotas to different Provinces every year according to needs. The quinine produced by the Governments of Madras and West Bengal supplemented by stocks from the Central Reserve are distributed to Provincial Governments on the basis of the quotas fixed by the Central Government. Supplies of quinine are supplemented by supplies of Mepacrine.

RESEARCH FACILITIES FOR LEATHER TECHNOLOGY IN CENTRALLY ADMINISTERED UNIVERSITIES

1215. *Shri V. C. Kesava Rao: (a) Will the Honourable Minister of Education be pleased to state whether research facilities are available in the Centrally administered universities for leather technology?

(b) Do Government propose to give any grants for this purpose to other universities?

(c) Have any students been deputed to foreign universities to study this subject?

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

(b) The request of the Universities, if and when received, will be considered on merits.

(c) Yes, four in 1945-46 and one in 1946-47.

MEO RAIDS ON BHARATPUR BORDER

1216. *Ch. Ranbir Singh: (a) Will the Honourable Minister of States be pleased to state whether the attention of Government has been drawn to a press statement of the Administrator of Bharatpur State published in the *Dak Edition* of the *Hindustan Times* dated 6th March, 1948 regarding the Meo menace on Bharatpur border?

(b) If so, what steps do Government propose to take to check these raids?

The Honourable Pandit Jawaharlal Nehru: (a) Yes.

(b) The State authorities in cooperation with Gurgaon District authorities are taking all necessary measures to stop these raids.

SCHEDULED CASTE CANDIDATES SENT ABROAD FOR STUDIES ON GOVERNMENT SCHOLARSHIPS

1217. ***Shrimati Dakshayani Velayudhan:** Will the Honourable Minister of Education be pleased to state:

(a) the number of scheduled caste candidates sent abroad on Government scholarship from 1937, year by year;

(b) whether Government invited applicants for the same, every year;

(c) the reason for the decrease if any, in the number of candidates sent each year;

(d) whether candidates are sent only for technical training; and

(e) if so, whether Government propose to consider the desirability of sending candidates (scheduled castes) for other branches of study as well?

The Honourable Mr. Rafi Ahmed Kidwai: (a) A statement giving the required information is placed on the table of the House. The reference to the year 1937 is, however, not understood because both the Scheduled Castes Scholarships scheme and the Overseas Scholarships scheme under which Scheduled Caste students have been sent abroad came into effect only in 1945.

(b) and (c). Applications for overseas scholarships under the Scheduled Caste Scholarships Scheme were invited only in 1945; no applications have been invited since 1946. The decision to discontinue overseas scholarships under this scheme was taken by the Scheduled Caste Scholarships Board which is entrusted with full powers to administer the funds provided by the Government of India, and which has on it representatives of the Scheduled Castes.

The reasons which led the Board to this decision were as follows. In the first place, the performance of the Scholars who were selected in 1945 was very disappointing, and the universities abroad, particularly on account of the present congestion, are unwilling to accept students whose attainments are not of first class standard. Secondly, the Overseas Scholarships Scheme which came into operation in 1945 also provided for suitable Scheduled Caste students, and the Board, therefore, did not consider that it was necessary for it to make separate provision for sending Scheduled caste students abroad. Finally, the Board felt that the benefit to the scheduled castes would be greater if, instead of sending abroad a few students of mediocre abilities, a much larger number of students were given scholarships to complete their study in this country.

(d) The scholarships awarded in 1945 were for technical and also for other subjects.

(e) Does not arise.

Statement

Showing the Number of Scheduled Castes candidates sent Abroad on Government Scholarships from 1937 year by year.

Year	Scheduled Castes Scholarships Scheme (Introduced in 1944-45)	Overseas Scholarships Scheme (introduced in 1945-46)	Total
1937 to 1944	Does not arise	Does not arise	Nil
1944-45	Nil	Does not arise	Nil
1945-46	22	12	34
1946-47	*Nil	†1	1
1947-48	Nil	†Nil	Nil

*The policy of sending Scheduled Castes students for higher studies abroad under the Scheduled Castes Scholarships Scheme was discontinued from 1946-47.

†The actual number of students selected under the Overseas Scholarships Scheme in 1946-47 and 1947-48 is 2 and 3 respectively although only 1 from 1946-47 batch has sailed so far. The remaining 4 are awaiting admission.

DEARNESS ALLOWANCE FOR CENTRAL GOVERNMENT PENSIONERS

1218. *Shri Damodar Swarup Seth: (a) Will the Honourable Minister of Finance be pleased to state whether it is a fact that the Central Pay Commission examined the case of pensioners and recommended an increased amount of aid by way of dearness allowance and that Government rejected this recommendation?

(b) Do Government propose to reconsider the case of Central Government pensioners in view of the abnormal rise in the cost of living?

The Honourable Shri R. K. Shanmukham Chetty: (a) The Central Pay Commission recommended the grant of dearness allowance to persons who may retire after the 1st January 1947. The Government have not accepted the recommendation.

(b) Government consider that the present rise in the cost of living is a transient phase and do not propose to reopen the question.

RELEASE OF ALL E. T. E. AND E. T. A. PERSONNEL OPTING FOR PAKISTAN

1219. *Kazi Syed Karimuddin: (a) Will the Honourable Minister of Defence be pleased to state whether it is a fact that the Government of India, Ministry of Defence, have issued a memorandum that the E.T.E. and E.T.A. personnel are not given an option to elect for either India or Pakistan and that all E.T. Personnel who have expressed a desire to go to Pakistan should be released irrespective of whether the Government of Pakistan required their services or not?

(b) If so, what are the reasons for adopting such a course?

(c) Why did Government make a distinction between opting out provisionally or finally?

The Honourable Sardar Baldev Singh: (a) Yes.

(b) and (c). The reasons are indicated in part (a) of this question. Government dispensed with the services of those who desired to go and serve in Pakistan. It was not the responsibility of this Dominion to ascertain whether the Pakistan Dominion was or was not in a position to absorb the discharged personnel.

RE-EMPLOYMENT OF OUSTED E. T. E. and E. T. A. PERSONNEL

1220. *Kazi Syed Karimuddin: (a) Will the Honourable Minister of Defence be pleased to state why the employees who are ousted from the E.T.E. and E.T.A. cannot be re-employed in India?

(b) Why was every employee in the Ministry of Defence asked to exercise his option to serve in India or Pakistan without ascertaining the needs of Pakistan?

The Honourable Sardar Baldev Singh: (a) They will be employed to the extent vacancies are available.

(b) Employees of the Ministry of Defence as of all other Ministries of the Central Government, were asked to exercise option in accordance with the direction given by the Partition Council.

INDIAN AND FOREIGN FILMS ON EXHIBITION IN INDIA

1221. *Shri Ram Sahai: (a) Will the Honourable Minister of Information and Broadcasting be pleased to state the number of films that are being exhibited in India these days?

(b) How many of these are Indian and how many foreign?

(c) How many films have been allowed 'publicity' upto this time?

(d) Which films have been declared unsuitable for exhibition to minor boys and girls?

The Honourable Pandit Jawaharlal Nehru: (a) to (c). I regret that the information is not readily available and the time and labour required to collect it will not be commensurate with its utility.

(d) None since no such powers exist under the present Cinematograph Act.

MINISTRY OF HOME AFFAIRS COMMUNIQUE ON RECOMMENDATIONS OF PAY COMMISSION RE PERSONS WHO OPTED FOR PAKISTAN

1222. *Giani Gurmukh Singh Musafar: (a) Will the Honourable Minister of Home Affairs be pleased to refer to the Government of India Communique dated 27th November, 1947, directing all departments not to give effect to the recommendations of the Pay Commission in the case of people who, (i) opted for Pakistan; and (ii) who were not in service on the 15th August, 1947, under the Government of India, and state whether any means have been devised to implement the recommendations of the Pay Commission in the case of those non-Muslims who opted for Pakistan, but before 15th August, 1947, finally expressed their desire to serve under the Government of India but were not taken back by the Government of India and were relieved of their services under the Government of Pakistan?

(b) If the answer to part (a) above be in the negative, why were steps not taken in this connection?

(c) Do Government propose to look into the matter?

The Honourable Pandit Jawaharlal Nehru: (a) No case of non-Muslim Government servant who changed his option in favour of India before the 15th August still being unemployed has come to the notice of Government.

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

EXPENDITURE ON MR. COMPTON MACKENZIE FOR WRITING INDIA'S ACHIEVEMENT IN WORLD WAR II

1223. *Shri Lakshminarayan Sahu: (a) Will the Honourable Minister of Defence be pleased to state whether it is a fact that one Compton Mackenzie, a British novelist, had been commissioned by the old Government of India to write an account of India's achievements in World War II?

(b) Are Government even now keeping him on the contract?

(c) What are the facilities he has enjoyed so far in doing his work?

(d) What did he do on the last occasion when he visited India?

(e) How much money has been allotted to him as expenses and as remuneration?

The Honourable Sardar Baldev Singh: (a) and (b). Yes.

(c) He was given access to all information and documents necessary to the writing of a popular history of India's war effort and provided facilities for journeys to industrial centres in India and to the various battle-fields where Indian troops had fought and distinguished themselves.

(d) He was engaged in collecting material for the book.

(e) Government's financial commitments in this connection were limited to paying Mr. Mackenzie's travelling and halting expenses. The total amount paid is Rs. 21,000.

AGREEMENT WITH RULERS OF STATES FORMING UNIONS

1224. *Shri Kishori Mohan Tripathi: Will the Honourable Minister of States be pleased to lay on the table of the House a statement giving the broad outlines of the agreement arrived at by the rulers of such states as have united to form themselves into unions?

The Honourable Pandit Jawaharlal Nehru: The broad outlines of the agreement are contained in a statement placed on the table of the House.

Statement

The Covenant entered into by the Rulers for the formation of a United State provides for—

1. The complete merger and integration of the territories of all the covenanting State into one State with a common executive, legislature and judiciary.
2. A Council of Rulers of the covenanting States.
3. A Presidium consisting of 2 to 5 members each of whom shall be a Ruler of the covenanting State and not less than 21 years age.
4. The election by the Council of Rulers of one of the members of the Presidium to be the President and another to be the Vice-President of the Presidium. The President so elected is the Raj Pramukh of the United State.
5. The Raj Pramukh and Vice-President of the Presidium hold office for a term of 5 years from the date on which they enter on the duties of their office.
6. The Raj Pramukh is entitled to draw from the revenues of the United State a certain sum in order that he may be enabled to discharge conveniently and with dignity the duties of his office.
7. A Council of Ministers chosen by the Raj Pramukh to aid and advise him in the exercise of his functions.
8. Subject to the provisions of the Covenant and of the constitution to be framed there under, the executive authority of the United State shall be exercised by the Raj Pramukh either directly or through officers subordinate to them.
9. The military forces of each covenanting State become the military forces of the United State. Subject to any directions or instructions that may from time to time be given by the Government of India in this behalf, the authority to raise, maintain, and administer the military forces of the United State vests exclusively in the Raj Pramukh.
10. As soon as practicable a Constituent Assembly elected on the basis of approximately one representative for one lakh of population, is to be summoned to frame a Constitution for the United State within the framework of the Covenant and the Constitution of India and providing for a government responsible to the Legislature.
11. The Agreement also guarantees the payment of a certain fixed amount as privy purse to each Ruler of the covenanting States and continuance of all personal privileges enjoyed by him and the members of his family immediately before August 15, 1947.

SPECIAL GRANTS TO C.P. AND ORISSA DEVELOPMENT OF BACKWARD AREAS IN CHHATTISGARH AND ORISSA STATES

1225. *Shri Kishori Mohan Tripathi: (a) Will the Honourable Minister of Finance be pleased to state whether, in view of the fact that the responsibility of administration of the Chhattisgarh and Orissa States primarily vests in the Government of India, they have made any special provision in the ensuing year's budget for developing these backward areas?

(b) If not, do Government propose to consider the desirability of giving special grants to the Central Provinces and Orissa for the specific purpose referred to in part (a) above?

The Honourable Shri R. K. Shanmukham Chetty: (a) The presumption of the Honourable Member that the responsibility of administration of these States vests in the Government of India is not correct. The position is that

the Rulers have handed over all authority and jurisdiction to the Central Government and the latter have delegated powers to the Provincial Governments under the Extra Provincial Jurisdiction Act of 1947 to administer the States in regard to the subjects included in the Provincial and Concurrent lists; in effect these territories have become part of the Provincial territories for purposes of administration and development.

No special provision has been made in the ensuing year's budget for developing these particular areas, but the Provincial Governments concerned will doubtless take into consideration the necessities of these areas in formulating their development plans.

(b) For the reasons given in the reply to (a) the question of making any special grant does not arise.

INFORMATION OF MASS WELFARE ACTIVITIES TO RURAL AREAS IN INDIA

1226. *Shri Kishori Mohan Tripathi: (a) Will the Honourable Minister of Information and Broadcasting be pleased to state whether Government are aware that practically no information of their mass-welfare activities reaches the rural areas in India?

(b) If so, how do Government propose to remove this short-coming?

The Honourable Pandit Jawaharlal Nehru: (a) and (b). As the Honourable Member is aware Government's publicity activities which can reach the rural areas are primarily those through the All India Radio, the new organisation called Indian Films press releases, and the publication of books, periodicals and pamphlets. The range of these activities is necessarily limited by the availability of the necessary facilities for receiving the wireless broadcasts, for having the necessary arrangements for screening the films and by the existing standards of literacy and the number of libraries extant. Provincial Governments are largely responsible for publicity in rural areas. Government are fully alive to the need for adequate publicity in such areas.

SUPPLY OF UNEATABLE TINNED FOOD TO 2ND MAHAR BATTALION STATION IN DELHI

1227. *Dr. P. S. Deshmukh: (a) Will the Honourable Minister of Defence be pleased to state whether it is a fact that the 2nd Mahar Battalion is at present stationed at Delhi Cantonment?

(b) What ration is being given to them here?

(c) Is it a fact that they are often given war rations containing tinned articles of food packed in 1945?

(d) Are Government aware that these articles have been spoilt and are uneatable?

(e) Do Government propose to enquire into the matter?

The Honourable Sardar Baldev Singh: (a) Yes.

(b) The normal I. T. scale of rations is being given, consisting, among others of Atta, Dal, Ghee, and Milk.

(c) No. Normally I.T. Scale of rations is issued and only occasionally tinned rations are given.

(d) Nothing that is spoilt or uneatable is ever issued to troops. All rations are examined, before issue, by the Military Food Laboratory and are issued only if declared fit.

(e) Does not arise.

MILITARY DAIRIES STILL FUNCTIONING IN INDIA

1228. *Dr. P. S. Deshmukh: (a) Will the Honourable Minister of Defence be pleased to state how many military dairies are still functioning?

(b) What is the amount of milk and other products produced by each per month?

(c) Do any of these dairies manufacture butter and cheese?

(d) If so, how much do they produce per month?

(e) Are these articles sold to the civil population?

(f) Has the manufacture of any milk products been stopped since the termination of war?

(g) Have the British or Americans taken away or sold any machinery that was used in dairies before?

(h) Is it a fact that the Americans had set up machinery for articles to be tinned?

(i) Are all these arrangements intact or have they been discontinued?

(j) If so, how many there were and how many have been discontinued?

The Honourable Sardar Baldev Singh: (a) 25.

(b) and (d). I lay a statement on the table of the House.

(c) Butter is manufactured in all the dairies, but not cheese.

(e) Yes, if and when there is any surplus after the demands of the Army have been met.

(f) No.

(g) No, not from any dairies under the Military Farm Department.

(h) Government have no such information.

(i) and (j). Do not arise.

Statement

Name of Farm	Milk lbs.	Butter lbs.	Cream lbs.	Ghee lbs.
1. Agra	106,743	1,443	177	..
2. Allahabad	58,781	1,271	74	..
3. Ambala	197,186	2,408	326	..
4. Bareilly	54,878	685	725	..
5. Dehra Dun	215,344	2,861	904	..
6. Ferozepore	155,757	2,180
7. Jhansi	56,317	392	141	43
8. Jullundur	179,175	1,880	212	..
9. Kanpore	61,188	1,909	122	..
10. Kasauli	14,067	1,080	91	..
11. Lucknow	194,316	4,409	395	..
12. Meerut	448,448	4,894	787	6 ¹
13. Namkoi	168,905	1,600	220	..
14. Panagarh	33,582	404	15	..
15. Pathankote	122,166	1,034	66	..
1. Wellington	17,641	39	33	..
2. Jubbulpore	176,208	943	324	3,39 ⁹
3. Mhow	57,903	303	48	444
4. Kutni	58,568	161	32	330
5. Belgaum	34,566	320	37	..
6. Ahmednagar	55,482	429	69	684
7. Deolali	106,945	4,285	623	..
8. Kalyan	215,215	5,035	352	..
9. Kirkee	495,313	4,306	1,364	1,072
10. Bangalore	200,444	577

PARALLEL PEOPLES' GOVERNMENT IN FARIDKOT AND NABHA STATES

1229. *Ch. Ranbir Singh: (a) Will the Honourable Minister of States be pleased to state whether it is a fact that parallel Governments have been set up in Faridkot and Nabha States to fight the present rule of these States?

(b) Is it also a fact that the peoples Governments in both the States have captured large tracts and made captives the State Government servants?

(c) Is it also a fact that lathi charges have been resorted to, which resulted in many casualties and wounded hundreds of people, by the Police of the various states?

(d) Is it also a fact that there is great danger for maintenance of peace and order in the states?

(e) If so, what steps do Government propose to take to maintain peace and order in the states mentioned above?

The Honourable Pandit Jawaharlal Nehru: (a) and (b). The State Congress in these two States launched a satyagraha movement for the grant of responsible Government. Government have no information whether a parallel Government was set up, but through the mediation of the States Ministry the movement has been called off and the States have released Praja Mandal leaders and certain State officials who were suspected by the State authorities of sympathy with the Praja Mandal movement.

(c) There were reports of lathi charge in Faridkot, and a number of people suffered injuries. Government have no information whether the Nabha State authorities resorted to lathi charge.

(d) As a result of the appeals issued by the Honourable Minister for States and the President of the All India States Peoples Conference the movement has been called off and reports indicate that for the time being there is no threat to law and order.

(e) Does not arise.

TEARING AND BURNING OF INDIAN NATIONAL FLAG IN PATIALA

1230. *Ch. Ranbir Singh: (a) Will the Honourable Minister of States be pleased to state whether it is a fact that on the 29th February, 1948, the Indian Union flags were torn into pieces and burnt in Patiala proper?

(b) If so, do Government propose to request the State Government to take action against those who were responsible for it?

The Honourable Pandit Jawaharlal Nehru: (a) and (b). Government have no information.

PROTEST DEMONSTRATION OF JAT KISANS OF BHARATPUR STATE AT INAUGURATION OF MATSYA STATE UNION

1231. *Ch. Ranbir Singh: (a) Will the Honourable Minister of States be pleased to state whether the attention of Government has been drawn to the news item published in the *Statesman* dated the 18th March, 1948, regarding the protest demonstration of the Kisans (mostly Jats) of Bharatpur State on the occasion of the inauguration of Matsya State, for the inclusion of their representative in the interim cabinet of the Union?

(b) If so, what steps do Government propose to take in this respect?

The Honourable Pandit Jawaharlal Nehru: (a) Yes.

(b) The matter is for the Raj Pramukh and the Interim Cabinet of the Matsya Union to decide.

PUBLICATION OF ORISSA STATES RULERS INVENTORIES OF PRIVATE PROPERTIES

1232. *Shri Yudhisthir Misra: Will the Honourable Minister of States be pleased to state whether the Rulers of the Orissa States have submitted inventories of their private properties and if so, do Government propose to ask the Government of Orissa to publish them for the information of the people of the Orissa States?

The Honourable Pandit Jawaharlal Nehru: The Rulers of Orissa States have submitted inventories of their private properties and these are still under examination.

SHIFTING OF INDUSTRIAL AREA FROM NAJAFGARH ROAD DELHI IN VIEW OF PUBLIC HEALTH

1233. *Giani Gurmukh Singh Musafar: (a) Will the Honourable Minister of Health be pleased to state whether it is a fact that in the committee meeting held to consider the plan of 'Greater Delhi', an objection has been raised regarding the location of the industrial area on the Najafgarh Road, Delhi?

(b) In view of the strong objections from the health point of view, do Government propose to consider the question of shifting the industrial area to some other distant place? If not, why not?

(c) If the reply to part (b) above be in the negative, do Government propose to constitute a committee of health experts to examine the question whether the present location of the industrial area will not be injurious to the citizens of Delhi?

The Honourable Rajkumari Amrit Kaur: (a) It is understood that at a meeting convened by the Chief Engineer, Central public Works Department, to discuss a sketch plan prepared by his Department for the expansion of Delhi, the opinion was expressed by some that the location of the Industrial Area at Najafgarh Road was unsuitable.

(b) and (c). The scheme of the Delhi Improvement Trust for the location of an industrial area at Najafgarh Road was sanctioned in 1940 and no objection to the location of the Industrial Area in this locality on grounds of health was raised at any stage. I shall, however, look into the question as to whether there is any objection to the location of an industrial area in this locality from the point of view of health.

CONSTRUCTION OF NEW AERODROMES BY HYDERABAD STATE WITHOUT CONSENT OF GOVERNMENT OF INDIA

1234. *Dr. B. V. Keskar: (a) Will the Honourable Minister of States be pleased to state whether it is a fact that the Government of Hyderabad are constructing new aerodromes without consulting the Government of India?

(b) Are the Government of Hyderabad permitted to do so under the Standstill Agreement?

The Honourable Pandit Jawaharlal Nehru: (a) The Government of India have received a report that the Hyderabad Government are constructing an aerodrome near the Madras border.

(b) This is one of the matters arising out of the Standstill Agreement, which is now under discussion between the Government of India and His Exalted Highness the Nizam's Government.

STATES ISSUING STAMPS AND KEEPING THEIR OWN POST OFFICES CONTRARY TO INSTRUMENT OF ACCESSION

1235. *Dr. B. V. Keskar: (a) Will the Honourable Minister of States be pleased to state whether it is a fact that though Posts and Telegraphs are a central subject and are recognised as such in the Instrument of Accession, they are under the control of the State authorities in a number of States?

(b) Is it a fact that contrary to the Instrument of Accession, a number of States are still permitted to issue their own postage stamps and have their own Post Offices?

(c) What are the States which control their own Post and Telegraph Offices and those which issue their own stamps?

(d) What steps do Government propose to take to bring all Post and Telegraph Offices under the control of the Government of India?—

The Honourable Pandit Jawaharlal Nehru: (a) and (b). The Constitutional effect of accession on Posts and Telegraphs is that the Dominion Legislature has acquired authority to make laws for the States in regard to these matters. Under the Standstill Agreement, which the States have executed, all arrangements in force prior to the 15th August, 1947 continue till the arrangements are superseded either by fresh agreements or by Dominion Legislation.

(c) A statement giving this information is placed on the table.

(d) The whole position regarding postal arrangements in Indian States under the Instrument of Accession is under examination.

— Statement —

I. States which have their own Post Offices.

1. *Travancore.
2. *Cochin.
3. *Hyderabad.
4. †Patiala.
5. †Nabha.
6. †Chamba.
7. †Jind.
8. ‡Mewar.
9. *Barwani.
10. *Kishangarh.
11. *Jaipur.
12. *Shahpura.
13. †Gwalior.
14. *Morvi.
15. *Idar.
16. *Rajkot.
17. *Junagadh.
18. *Orchha.
19. *Charkhari.

II. States which have their own Telegraph Systems.

1. Jammu and Kashmir.
2. Tehri Garhwal.

*These States issue their own Stamps.

†These States use Indian postage stamps overprinted with the name of the State.

‡This State collects postage in cash.

SHORT NOTICE QUESTIONS AND ANSWERS

ILL TREATMENT BY THE SECURITY STAFF OF A CLERK OF M. E. DIRECTORATE WHO IS ALSO THE ORGANISING SECRETARY OF ARMED FORCES HEADQUARTERS TEMPORARY EMPLOYEES UNION FOR DISTRIBUTING HANDBILLS FOR EMPLOYEES CONFERENCE.

Prof. Shibban Lal Saksena: (a) Will the Honourable Minister of Defence be pleased to state whether the attention of Government has been drawn to the fact that a clerk of the M.E. Directorate, Army Headquarters and Organising Secretary of the Armed Forces Headquarters Temporary Employees Union was stopped by a member of the Security staff of the Armed Forces Headquarters at 9-30 A.M. on 17th March 1948, while distributing handbills about the Central Government Employees Conference which was held in Mazdoor Park, New Delhi, on 20th and 21st March, 1948 under the Presidentship of Professor K. T. Shah and which was inaugurated by Mr. Ananthasayanam Ayyangar, M.C.A., and was taken to the Security Officer who abused him for distributing the pamphlets and got him manhandled and beaten by chaprassis and sentries in his office and had him locked up in the Quarter Guard Room in 'K' Block in the Secretariat till 5 P.M. on 17th March 1948?

(b) Have Government made any inquiries in the matter and if so, what action do Government propose to take to prevent such incidents in future?

The Honourable Sardar Baldev Singh: (a) and (b). A summary enquiry was held into the incident referred to by the Honourable Member, the result of which is to suggest:

- (i) that the clerk was distributing leaflets during office hours on the 17th March, and was, therefore, doing something that was wrong and calls for disciplinary action;
- (ii) that he was called upon to desist from distributing these leaflets; and that he refused to do so;
- (iii) that his refusal appears to have been couched in words which were probably offensive and provocative;
- (iv) that the Security Officer ordered the clerk's detention until such time as he (the clerk) was in a mood to speak and behave in a reasonable manner;
- (v) that the clerk's refusal to be allowed to be led from the room for detention resulted in the Security Officer ordering his bodily removal and his subsequent detention until after 5 in the evening.

It was evident that the matter required further and fuller investigation, and I have accordingly directed that a detailed enquiry, which will include the examination of independent witnesses, should be held with a view to determining which of those concerned have been at fault. Suitable disciplinary or other action will be taken against all those who are found to have conducted themselves in a manner which calls for such action.

In the meantime, I should like to express my sincere regret at the occurrence of an incident of this nature in the Defence Ministry.

Prof. Shibban Lal Saksena: While thanking the Honourable Minister for the regret expressed and accepting it, may I ask to be told whether the clerk concerned was distributing the handbills at 9-30 A.M. and whether it is not a fact that his duty began only at 10 A.M.?

The Honourable Sardar Baldev Singh: According to the information available the clerk was distributing leaflets during office hours.

Prof. Shibban Lal Saksena: Is it not a fact that the officers themselves have admitted that he did it before his duty began?

Mr. Speaker: Order, order. As a comprehensive enquiry is going to be undertaken, it will not serve any useful purpose discussing the facts as to what happened. It may perhaps prejudice the enquiry one way or the other.

Shri H. V. Kamath: Will the report of the enquiry be a secret document?

The Honourable Sardar Baldev Singh: It is very difficult to say. But the result of the enquiry will certainly be found.

Shri H. V. Kamath: Will the matter be placed before the Standing Committee for the Ministry of Defence?

The Honourable Sardar Baldev Singh: This is too small a matter for the Standing Committee to consider.

Prof. Shibban Lal Saksena: Is it a fact that the officer who put the clerk in the Quarter Guard Room was not the officer under whom that official was working, and when the clerk requested that he might be taken before his own officer, the officer abused even that officer?

Mr. Speaker: Order, order. I do not think any other question should be permitted on this as we are going into details; and as I said, it may prejudice the enquiry either way.

HARASSMENT AND MOLESTATION OF HINDU WOMEN AT CUSTOMS BARRIERS
BETWEEN EASTERN PAKISTAN AND WEST BENGAL

Shrimati Renuka Ray: (a) Will the Honourable Minister of Relief and Rehabilitation be pleased to state whether it is a fact that Hindu women are being subjected to harassment and molestation in increasing numbers at the Customs barriers between Eastern Pakistan and West Bengal?

(b) If so, have Government approached the authorities in Pakistan about having women at the Customs barriers for search? If so, with what result?

The Honourable Shri K. C. Neogy: (a) Reports have been received of harassing searches by Officers of Eastern Pakistan and others at various points of transit between Eastern Pakistan and surrounding territories of the Indian Union.

(b) This and allied matters will be discussed at the Inter-Dominion Conference which will be held in Calcutta next week.

Pandit Lakshmi Kanta Maitra: Is the Honourable Minister aware that since the recent visit of the Chief of the Pakistan State to East Bengal there has been a sudden deterioration in the situation so much so that not only the male folk but the women folk of the Hindu Community are undergoing humiliation and harassment at the points of transit throughout the borders between Eastern Pakistan and Western Bengal?

The Honourable Shri K. C. Neogy: I am quite aware of the situation that prevails at the moment in Eastern Pakistan, but I am not prepared to say that it has necessarily anything to do with the recent visit of the Head of the Pakistan Government to that place.

Pandit Lakshmi Kanta Maitra: Is it not a fact that very recently several girl graduates of the Calcutta University who had been proceeding to Calcutta to attend the Convocation to receive their degrees and diplomas were subjected to all manner of harassment at Chandpur railway station, and that they were stripped of all their belongings and compelled to go back to their native town with considerable difficulty?

The Honourable Shri K. C. Neogy: I have seen such reports.

Pandit Lakshmi Kanta Maitra: Is he also aware.....

Mr. Speaker: Is he referring to any report of any other incident?

Pandit Lakshmi Kanta Maitra: I am referring to this particular category of incidents.

Mr. Speaker: The point of enquiry which the Honourable Member made, namely, whether there is a necessary connection between the visit of the Chief of the Pakistan Government and this incident, has already been answered by the Honourable Minister, who has said that he is not prepared to admit that. It is a matter of inference.

Pandit Lakshmi Kanta Maitra: I am not referring to that part at all. I am asking whether it is not a fact that in the name of searches under the Customs regulations, all manner of humiliating treatment is at the moment being meted out to the Hindu women in collusion with or at the connivance of the Police by the Muslim League National Guards. This is a new feature in the situation. If it is due to any adventitious cause I want to know; if it is a natural outcome of their policy, I have no quarrel. I want to know whether it is a fact that suddenly there has been a deterioration in the situation to such an extent that the Hindu women particularly are now subjected to all manner of humiliation and molestation at the hands of the Muslim National Guards, and in some cases with the direct assistance of the agents of the Pakistan Government?

The Honourable Shri K. C. Neogy: As I have said, I have seen such reports and I deprecate any further discussion of the merits of these controversial matters in view of the forthcoming Inter-Dominion Conference where we hope to discuss all these various points.

Shri Mihir Lal Chattopadhyay: May I know what is the source of information of the Government of India—is it the Government of West Bengal or the newspapers?

The Honourable Shri K. C. Neogy: We get reports from the Government of West Bengal from time to time, apart from getting, say, individual communications from different sources which are sometimes addressed to me personally, sometimes to Government. Then again, there are the newspapers which give us detailed reports though I must say that the Delhi newspapers do not seem to be much interested in what is going on in Eastern Pakistan.

Pandit Lakshmi Kanta Maitra: Has the Honourable Minister received also representations in this respect from the Minorities Welfare Committee in Eastern Pakistan?

The Honourable Shri K. C. Neogy: Yes.

Pandit Lakshmi Kanta Maitra: About the cases of the category to which I have referred?

The Honourable Shri K. C. Neogy: Yes, and from other Associations.

Pandit Lakshmi Kanta Maitra: Do I take it that the Honourable Minister is going to impress on the authorities of Pakistan the next time he meets them that this thing must be put a stop to?

The Honourable Shri K. C. Neogy: We are going to Calcutta to discuss these matters, and my Honourable friend may depend upon me for doing the best that is possible in the circumstances.

Shrimati Renuka Ray: In view of the increasing number of such cases which the Honourable Minister has acknowledged, are the Government of India and the Government of West Bengal collecting statistical data of all such cases which can be placed at the Inter-Dominion Conference; and if not, will he kindly see that it is done?

The Honourable Shri K. C. Neogy: The Honourable lady member would realize that it is rather difficult for the Central Government to arrange for a collection of statistical data of this kind. But we have addressed the Provincial Government to help us in this matter as far as is possible in the short time at our disposal.

Pandit Lakshmi Kanta Maitra: Would the Honourable Minister allow persons and organizations to make representations to him when he sits in the Dominion Conference?

The Honourable Shri K. C. Neogy: Representations certainly can be made to me, but not while I am actually sitting in the Conference.

Pandit Lakshmi Kanta Maitra: I would request my Honourable friend not to deny the people an opportunity, and I would like to know whether he would receive the representations before the Conference meets.

The Honourable Shri K. C. Neogy: I hope to be there a few days before the Conference starts, and I shall not be sparing myself any trouble. I shall be personally going about and visiting the camps and other places in order to acquaint myself with the situation at first hand.

Sri H. V. Kamath: Have any reports been received of similar harassment of Hindu women at the barrier between India and Western Pakistan?

The Honourable Shri K. C. Neogy: That does not seem to arise out of this question. But I cannot definitely recollect any allegations of the gravity of this type having been received from that side of late.

Shri Deshbandhu Gupta: Have any complaints been received from the Deputy High Commissioner for India in Karachi of similar harassment and molestation of women refugees coming from Sind?

The Honourable Shri K. C. Neogy: Sometime ago, yes.

Shri Deshbandhu Gupta: Has any action been taken on same and if so, with what result?

The Honourable Shri K. C. Neogy: I am afraid my Honourable friend will have to give me notice of this question.

Prof. Shibban Lal Saksena: Is the Honourable Minister aware that such incidents were brought to his notice in the Assembly before but with no result?

The Honourable Shri K. C. Neogy: We have lodged protests with the Pakistan Government.

Prof. Shibban Lal Saksena: Has there been any effect?

The Honourable Shri K. C. Neogy: Judging from the reports that continue to pour in, it does not seem that our protests have been of much use.

Mr. Speaker: Order, order. I think it is no use pursuing this matter. We have very often pursued these matters on these lines—not this particular question, but representations to Pakistan. We need not go into it any further.

REFERENCE OF GODHRA RIOTING TO U. N. O. BY PAKISTAN

Saiyid Jafar Imam: (a) Will the Honourable the Prime Minister be pleased to state whether the attention of Government has been drawn to the report of the reference to United Nations Organisation by the Government of Pakistan of the riot in Godhra, Bombay Province?

(b) Do Government propose to make a full statement on the facts of the riot?

The Honourable Pandit Jawaharlal Nehru: (a) There have been reports about such a reference in the Press but Government have not received any official intimation to this effect.

(b) The attention of the Honourable Members is invited to a detailed statement made by the Home Minister of the Bombay Province in the Bombay Legislative Assembly on the 29th March, 1948. There is nothing that I have to add to that statement. The situation in Godhra became tense sometime ago, as a result of a procession that was taken out by some refugees. During the procession a flag on a *dargah* was pulled down. Action was taken against the persons concerned and some people were prosecuted. The immediate cause of the trouble was the stabbing of a Hindu refugee in a Muslim locality on 25th March. Soon after another refugee having a shop in a Muslim locality was murdered in his shop and this was followed by the stabbing of two other persons. The police who tried to intervene were also attacked resulting in severe injuries to two policemen. Energetic measures, including resort to firing, were immediately taken by the police and these resulted in two civilians being killed. Troops were also rushed to the town that very day. On the next day, 26th March, a number of refugees, excited by the events of the previous day, attacked some Muslims. The situation was, however, brought under control that very day. The casualties reported are 16 killed and 25 injured, including those killed and injured as a result of firing by the police. A large number of arrests have been made. On the same day two houses evacuated by Muslims in a Muslim locality were set on fire. The fire could not be put out quickly as the only fire engine possessed by the Godhra Municipality could not be worked, as the person in charge of the engine who was a Muslim had gone away. Two Fire engines were rushed from Lonaval and Baroda but these necessarily took some time to arrive, and in the meanwhile what would have been just a minor fire resulting in the loss of two houses spread to other houses and became a huge conflagration. Water was another difficulty as the wells in Godhra are very deep and the water tank was situated at a considerable distance from the scene of the fire. Every possible effort was made to combat the fire and a platoon of Field Company R.I.E. was called in to assist in fighting fire and demolishing burning houses. It is, however, feared that loss of property through fire has been heavy. It is difficult to give a correct estimate of the number of houses destroyed but the estimate is that the number will be between 600 and 1000 and they belong more or less half to Hindus and half to Muslims. The Home Minister, Bombay, visited Godhra immediately on receipt of information about rioting and every possible action was taken to restore order and to protect life and property in the town. Conditions in the town are now reported to be quiet.

Prof. N. G. Ranga: How many of those killed and injured were Hindus and Muslims?

Mr. Speaker: I might make the position clear with regard to this question. So far as the details of what happened in Godhra are concerned, it is entirely a provincial matter and no question can be permitted with reference to that. I admitted the question because the first part of it dealt with reference to UNO. So, that matter having been cleared, I do not think any further questions as regards happenings in Godhra can be put in this House now.

Saiyid Jafar Imam: May I put one question?

Mr. Speaker: I shall be able to decide after I know what the question is.

Saiyid Jafar Imam: May I know if the Honourable the Prime Minister is aware that conditions in Godhra at present are satisfactory?

Mr. Speaker: I will not permit that question. As I said it is entirely a Provincial matter.

ELECTION TO STANDING COMMITTEE FOR MINISTRY OF EXTERNAL AFFAIRS AND COMMONWEALTH RELATIONS

The Honourable Pandit Jawaharlal Nehru (Prime Minister, Leader of the House and Minister for External Affairs and Commonwealth Relations): I beg to move:

"That this Assembly do proceed to elect in such manner as the Honourable the Speaker may direct, one member to serve until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of External Affairs and Commonwealth Relations *vice* Sardar K. M. Panikar who has resigned from the Assembly."

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 until the end of the financial year 1948-49 on the Standing Committee to advise on subjects concerning the Ministry of External Affairs and Commonwealth Relations *vice* Sardar K. M. Panikar who has resigned from the Assembly."

The motion was adopted.

Mr. Speaker: I have to inform Honourable Members that for the purpose of election by means of the single transferable vote of a member to the Standing Committee for the Ministry of External Affairs and Commonwealth Relations the programme of dates will be as under:

1. Nomination to be filled in the Notice Office upto 12 Noon on Tuesday, the 6th April

2. Election, if necessary, will be held on Thursday, the 8th April, in the Assistant Secretary's room (No. 21) in the Council House between the hours of 10-30 A.M. and 1 P.M.

ELECTIONS TO CENTRAL ADVISORY COUNCIL FOR RAILWAYS AND INDIAN NURSING COUNCIL.

Mr. Speaker: I have also to inform the Assembly that upto the time fixed for receiving nominations for the Central Advisory Council for Railways and the Indian Nursing Council, 8 nominations in the case of the first and 2 nominations in the case of the second were received. As the number of candidates is equal to the number of vacancies in each case, I declare the following members to be duly elected:

I. Central Advisory Council for Railways: (1) Mr. R. K. Sidhva, (2) Shri Deshbandhu Gupta, (3) Shri R. R. Diwakar, (4) Shri Arun Chandra Guha, (5) Shrimati Ammu Swaminadhan, (6) Shri Brijlal Nandlal Biyani, (7) Shri Gokulbhai Daulatram Bhatt, and (8) Prof. Shibban Lal Saksena.

II. Indian Nursing Council: (1) Shrimati G. Durgabai, and (2) Shri Yudhishthir Misra.

JUNAGADH ADMINISTRATION (PROPERTY) BILL—*contd.*

Mr. Speaker: The House will now proceed with legislative business, *viz.*, further Consideration of the Bill to provide for the vesting of certain property belonging to the State of Junagadh in the Administrator appointed by the Central Government. The House was last dealing with clause 3, amendments Nos. 6, 7 and 8 by the Honourable Member Mr. Naziruddin Ahmad. I have not placed them before the House yet. We had some discussion about them.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, to resume the debate at the stage where we left it on Saturday, I beg to submit that clause 3, particularly the portions covered by my amendments have direct relation with the schedule and also with a part of the Preamble. In order to prevent repetition, it is better that I should give the House an entire picture, in short, of my objections.

[Mr. Naziruddin Ahmad]

Sir, the object of the Bill is to declare certain properties mentioned in the Schedule, first of all to belong to the State of Junagadh, and secondly on that basis to provide for the vesting of the same in the Administrator. I submit that clause 3 is the operative part; that is the clause which really vests the property in the Administrator. It has direct relation to the Schedule because it refers to the Schedule. Therefore, the reference to the Schedule is clearly relevant although the Honourable the Law Minister thought that the reference to such Schedule will be irrelevant.

The Honourable Dr. B. R. Ambedkar (Minister for Law): I have never said that.

Mr. Naziruddin Ahmad: Some thing more was said, that I happened unfortunately to be unable to understand the clause and the reference in it to the Schedule was merely enumerative. I submit.....

Mr. Speaker: May I make the position clear to the Honourable Member at this stage? Though I think he is referring to the contents of the Preamble just for the purpose of supporting his argument, as to why these words should be omitted, he may not labour under a misapprehension that I am going to allow his amendments to the Preamble as proper or within the scope of the Bill because I permit him to argue on the lines which he has stated in the Preamble, so far as his amendment to clause 3 is concerned. He need not be under the impression, therefore, at a later stage that I am going to permit those amendments as in order. It is only a clarification of the position.

Mr. Naziruddin Ahmad: Sir, if I know that any part of my amendment is out of order, I think I shall cut short the matter. I am not at all concerned with the actual amendments that may be carried or that may be considered. I am concerned vitally with the irregularity of allowing certain properties to be declared as properties of the State and vesting the same in the Administrator and then preventing the Court from deciding the matter. That is the gravamen of my objection. In fact, the other objections are really subsidiary to that.....

Shri K. Santhanam (Madras: General): Sir, on a point of order. I think at this stage there should not be a general discussion. We have passed the stage of general consideration. We are on a particular amendment and our discussion should be confined to the discussion of the particular amendment and not to the whole subject,—the Preamble and Schedule and all that—then every other member will have the right to go through the whole subject.

Mr. Speaker: I do not propose to allow a general discussion and there should be no repetition also. But the point here is that the Honourable Member by his amendment wishes to delete certain portions, and in support of his argument, as I understand it, he is going to relate what he has stated as an amendment in the Preamble. He has already once made his point and, therefore, he will merely state his point; he cannot go into those details again. But I thought I might just inform him that because I allow him to adopt the argument which is contained in the Preamble, he need not labour under a misapprehension that the amendment to the Preamble is, therefore, in order. When we come to that amendment, I am not going to permit him to move it and I am stating that position clearly to him. I am also doubtful as regards his amendment to the Schedule, but that we shall come to later on.

Mr. Naziruddin Ahmad: Sir, I was not entering into a general discussion of the principles of the Bill except as was necessary to make my point clear for the deletion of certain words. In fact, in order to justify the deletion, it is necessary to explain the reasons and for that purpose to have a review of the whole thing. The whole thing can be boiled down to one and only one

statement, that is that the property belongs to the State and therefore it should vest in the Administrator. Sir, I want to make it clear that I am unable to accept that view. In fact the point arises in this way that it is impossible *prima facie* to hold that the properties really belong to the State as the Preamble says. What reason is there, I ask, for holding that the properties belong to the State? What argument or fact has been adduced before the House to enable it to hold that it really belongs to the State? As you kindly pointed out the other day, I was also assuming that they belong to the Ruler. I confess that I was also assuming that, but I ask you to kindly consider the reason for it. In fact, I proceeded on the basis of legal presumption. I cannot pretend to say that, though *prima facie* some properties would appear and belong to the Nawab, they therefore do not belong to the State. But I was only proceeding on a *prima facie* basis. If certain properties which stand in the name of the Nawab *prima facie* belong to him—that would and should alter the structure of the Bill altogether. I submit that the property mentioned in Parts II and III, that is the Government Securities and the Shares, stand in the name of the Nawab. With regard to items in part I, they stand in the name of officials. I wish here to abandon one of my amendments, that is amendment No. 7, about the declaration of title of property standing in the name of the Private Secretary, because I want to make matters short. There would be certain other consequential amendments in the other Parts; I have noted them and handed them over to you, Sir, for your kind consideration.

The most important thing on which I want to concentrate is the category of properties in Parts II and III. They are all Government Securities or Shares in companies. They all stand in the name of the Nawab. I ask you, Sir, and ask the House and the Law Minister as to whether the presumption is proper, *prima facie*—subject to what may be found as a fact after due investigation—whether, *prima facie*, we can take it that this property belongs to the Nawab? If that is so, then the wording in the Preamble that they belong to the State would be absolutely improper. It may in fact ultimately turn out to be property of the State, but it is impossible, without any evidence or any material, for us to accept that fact at this stage. Had this been purely an act of State—as an act of confiscation or the like—that would have been an entirely different matter. But the matter comes up before this House for legislative sanction. Therefore, we have to consider and test the position on general principles of law.

I submit, Sir, these properties *prima facie* belong to the person in whose name they stand. That is a well-known and well-established legal proposition for which I will not take the time of the House by citing any authorities. If that is so, then the very basis for clause 3 absolutely goes. In fact, if we are not permitted without any evidence whatsoever to assume that they are properties of the State, then the very basis of clause 3 goes.

There is the mention that “Notwithstanding anything contained.....”

The Honourable Dr. B. E. Ambedkar: Sir, for my own understanding I should like to know what are the amendments which are being discussed.

Mr. Speaker: Amendments Nos. 6 and 8—deletion of the words, “His Highness the Nawab of Junagadh, or”, and of the words, “or any other person whatsoever” from clause 3. He is abandoning amendment No. 7.

May I point out to the Honourable Member one aspect, as it appears to me here? As I see it, the object of this legislation is not to declare any of the properties of the Nawab Saheb as the properties of the State. Am I clear? It is not the object to say or declare by this legislation that, certain properties are properties of the Junagadh State, but at the most, according to the point of view which the Honourable Member is urging, they are assuming them to be

[Mr. Speaker]

the property of the State, and the object of the Bill is merely to vest these properties or give the Administrator certain rights in respect of these properties. That is the object. As a matter of fact, if these are not the properties of the State, the legislation is not going to affect the rights of the Nawab Saheb, whatever they may be. Therefore, it is no use for this House to go into a discussion as to whether a particular property is or is not the property of the Nawab Saheb. That cuts at the very root of the argument which the Honourable Member is urging and if he really wants by his long Preamble to establish the *prima facie* presumption, perhaps he is himself curtailing the rights of the Nawab Saheb by introducing the question of fact, because the Preamble says: "belonging to the said State". In fact, if the Preamble is left as it is, the Nawab Saheb's position with reference to the property being private property or not is much better and safer than otherwise. That is how *prima facie* it appears to me. Therefore, this discussion about the ownership does not, to my mind, seem to be relevant for the present purposes. That is my view of the matter.

The Honourable Dr. B. R. Ambedkar: If I may say so, the whole Preamble is a very ironical Preamble.

Mr. Speaker: That again is there. As a matter of fact, for various reasons it could be ruled out of order, but I am just trying to state to the Honourable Member what seems to me the proper view about this legislation.

Mr. Naziruddin Ahmad: Yes, Sir. I quite agree that the gist is the vesting of the property, but the declaration that they belong to the State is the foundation of that vesting under Clause 3. The vesting of the property is justified on the sole assumption that the properties belong to the State. Whether it affects the owner, namely, the Nawab adversely or beneficially is a matter with which I am not particularly concerned. The question is one of jurisprudence. I submit, Sir, that in order to justify Clause 3, it is necessary first of all to hold that the properties belong to the State. It is in this way that my argument against the declaration of the ownership of the State becomes relevant. Otherwise not, I quite admit.

Then, Sir, the argument that the Bill merely vests the properties in the Administrator and does not touch the question of title is not a very sound argument in view of the fact that the Courts of law are absolutely precluded by another clause from looking into the matter and parties, whoever they may be, whether the Nawab or anybody, having equitable interests or the Banks or other parties concerned, they have no right to approach the Court. It is by a joint operation of this declaration of title, the vesting and the prohibition of entry into courts that creates the difficulty. It is for this reason that it is necessary—in order to understand clause 3—to change the declaration. I beg to submit the declaration is the foundation upon which, the very justification upon which, and the very legal basis upon which, clause 3 is based.

I do not want to prolong the matter. The matter is of importance as a matter of principle. How can you; why should you, vest the properties in the Administrator who represents the State as distinct from the Nawab Saheb; how can you so vest properties which apparently belong to the Nawab? That is the mistake. That is the legal injustice which clause 3 perpetuates. It is for this reason that its very foundation should be considered, and the justification, the reason, the argument behind Clause 3 is that these properties belong to the State. If I can show apparently on a plain reading, on a plain consideration of Parts II and III of the Schedule that they do stand in the name of the Nawab and therefore they are *prima facie* his property,—if I can show

that, then the legality or validity of the declaration goes, and with that, I submit respectfully, the need, or the justification for, vesting the same in the State also goes. It is from this point of view that I was humbly submitting my argument before the House.

Sir, am I right in assuming,—I know I am assuming certain things—, would anyone be right in assuming, that properties mentioned in Schedules II and III—the Government securities and the shares standing in the name of the Nawab and belong to the State? Sir, I submit, it is this.....

Mr. Speaker: I think he has already made this point. It will be repetition if he goes on.

Mr. Naziruddin Ahmad: It is only because there have been several breaks in the argument that it unconsciously came out. I am sorry for the repetition.

But, I submit, Sir, if that is so, then how could we say that the properties really belong to the State as distinct from the Nawab? If we cannot say so, then how can we justify the acceptance of Clause 3?

You will be pleased to consider another aspect of the matter. It is said that the property described in the Schedule, whether in the name of the Nawab of Junagadh or any other person, *i.e.* persons other than the Private Secretary—the Manager or Engineer-in-Chief of Junagadh State or the Dewan of the State—apart from these, there are certain properties standing in the name of the Nawab of Junagadh. The words "or any other person", are inappropriate. These are really operative words, because the Schedule would be nothing. It would be merely a list. There is nothing to declare that the properties listed therein belong to anybody except by the operative words, that "properties standing in the name of His Highness the Nawab of Junagadh or persons other than the officials" vest in the Administrator. It is from this aspect that I was considering the removal of these words and it is to make the point clear that I was referring to the Schedule and when I was, I submit, hastily rebuked by the Honourable Minister that I did not understand the effect of the words in clause 3. I respectfully submit that I fully understand the effect of the descriptive words in clause 3; if I don't understand, you would be pleased to let me know and I shall be glad to admit that before the House, because I cannot be above the general level of the House. I should rather be content to be below the level of the House. Sir, I shall depend more upon argument than upon the authority which my voice can carry. I submit Clause 3 cannot be accepted. We have to decide things on judicial considerations. Our decisions and our verdict will affect Courts and we cannot reject and absolutely debar judicial considerations in weighing our decisions. I therefore submit that these words are not only unnecessary, but to vest properties of individuals in a State which is distinct from the individual does this injustice, this illegality and irregularity that is being committed through Clause 3.

With regard to the Honourable Minister's comment that the amendment of the Preamble is an ironical statement, I fully agree that it is so. Can anyone help being ironical in seeing the huge legal farce that is made? I submit it is a huge legal farce. If you say as a sovereign State that the Nawab had committed a certain wrong, then you can in executive capacity certainly confiscate his property. By all means, hang him; declare war against him; shoot him; but an impartial House like this will have nothing to do with it. The House will have to be aloof from such transactions. The consideration or the opinion of the House will not be required at all to justify such an act. You confiscate, that is what you are going to do, but you do not admit it. You take shelter under the convenient declaration that the property belongs to the State. This is a false declaration; You take shelter under an untrue statement and you want to really confiscate the property. If you do so, I think it would be all right because confiscation raises other considerations.

[Mr. Naziruddin Ahmad]

But, Sir, I beg to submit that this House cannot allow that course. In fact you can confiscate. I have asked by an amendment to the Preamble and I have attempted to justify the act, as an act of confiscation. That will be a different matter. We shall then know where we stand. We shall then know whether the consent of the House is being attained on proper grounds. This is in a word the basis of the objection which I am raising. It may well be that, as you pointed out, the position that I have taken will not be very beneficial to the Nawab. The Bill may in fact be more beneficial to him, but we are concerned not with the interests, the advantages or disadvantages of the Government or the Nawab, but we are concerned with the judicial considerations. Constitutional principles must stand higher than question of private interests or convenience or inconvenience. It is from this higher stand-point that the matter should be considered. I therefore submit that the properties apparently belonging to the Nawab cannot be allowed to be vested in the Administrator.

Then with regard to amendment No. 8, I think the words "or any other person whatsoever" are absolutely inappropriate. I shall explain the reason. Clause 3 says: "the property described in the Schedule whether in the name of His Highness the Nawab of Junagadh or the Dewan or the Private Secretary to His Highness the Nawab of Junagadh or the Manager and Engineer-in-Chief, Junagadh State Railway, or the Chief Accounts Officer, Junagadh State, or any other person.", but I shall ask the Honourable Minister to tell me what "any other persons" are possible, what room there is to mention "any other person". In fact Part I gives a list of five bank deposits and names of particular officials. There is no other person. Then Part II consists of eleven items all of which stand in the personal name of the Nawab whether by name or by title, but is the same person. There is no room for "any other person" and then Part III consists of two shares only which also stand in the name of the Nawab. I think that these words "or any other person" are wrongly introduced and there is really no scope for them. There may be any hidden need, but so far as the apparent need is concerned, there is no such thing and there is no room. Every item has been defined and the ownership is also specifically stated. There is no room for these words and they should therefore be deleted.

Shri K. Santhanam: I may point to the Honourable Member that we have tabled an amendment seeking permission for the addition of any new property which may be found for which this particular thing "by any other name" will be required.

Mr. Speaker: We are having a repetition of the same argument in one form or the other. The Honourable Member's argument does not carry the matter any further. The arguments have been repeated over and over again. But the reason is obvious that, on the date on which the Administrator took possession of these states, although they may be standing in the name of various names shown in the schedules, they vested in him. These are negotiable securities and one does not know in whose name they will be, when the time for operation comes. It is to avoid illegal or fraudulent transfer from one name to another to escape the result of this legislation that the words "or any other person" are put in. If that is correct, then it seems obvious that we need not go into that argument. The amendments are based on the principal that *prima facie* it does not appear to be the property of the State but of the Nawab Saheb and therefore should not be a subject-matter of this Bill. That seems to be in short the argument. So I would like him to bring his remarks to a close as soon as possible.

Mr. Naziruddin Ahmad: I think it is far better to finish the point altogether

Mr. Speaker: I hope there will be no further argument again on the Preamble.

Mr. Naziruddin Ahmad: I respectfully admit the force of the observations which you have just now made about the words "or any other person" but the suggestion of my Honourable friend Mr. Santhanam that the words "or any other person" was justified by an amendment subsequently thought of and tabled as a justification for the words, is absolutely absurd. In fact, I have carefully considered that amendment. That amendment merely states that the Government may insert other things in the Schedule. My learned friend Mr. Santhanam's argument does not carry conviction, but I bow down to the weighty observations which you have just now made. Then the question therefore reduces itself to this: "Why on earth are we going to confiscate his property?" If you do so, why not say so? If you confiscate his property, it must be on adequate considerations on questions of international law and other considerations, but I submit that no such consideration has been advanced. In view of your observations about the words "or any other person", I should also not press amendment No. 8. By the weighty observations which you have kindly made, I think that matter has been sufficiently clarified. But the substantial question still remains and that is whether the properties standing in the name of the Nawab should be vested in the State. Then with regard to the observation that you kindly made that it may be that there may be fraudulent transfers; but what justification will there be for holding them to be fraudulent transfers? And then what justification is there to debar the jurisdiction of Courts? I shall merely mention the tremendous effect of clause 3. It is guarded by the Preamble; It is again guarded on the other side by prohibition as to Courts. With regard to this matter I wish to submit that the Nawab should not be deprived of his remedies in this most surreptitious manner. That is all I wish to submit. I am very grateful for your forbearance and the forbearance of the House, but the repetition was inevitable in view of the several breaks, not only by interruptions but also by interventions of time. That is the reason why this took place. The whole abstract question which arises may perhaps be illustrated by an example. During the unfortunate disturbances in Delhi a rich man ran away leaving some moveables, a young wife and a servant. The servant applied to the Chief Commissioner to take care of the properties. An evacuee who needed a residence was selected as the Administrator and was put in possession. He soon came to a person in authority. He said, "I want to be clothed with legal authority over the properties or I shall be regarded as a thief, robber and a dacoit".—to quote the Honourable Minister's words. "Well, I shall declare your title and fully legalise your possession" said the person in authority, and gave him a letter of authority. He returned a few days later and asked for some pucca permanent document. "Well, I will get the Constituent Assembly of India to pass an Act recognising your title", said the person in authority. The Administrator stood undecided for some moments. "Well, you doubt the legality of the proposition?" said the person in authority. "But my word is law, for I am the Minister of legal wisdom in India." Encouraged beyond expectations by this enthusiastic support the Administrator cautiously suggested: "What about the runaway's wife? She is very pretty and useful, how can she be mine? She is a married woman and he has a marriage certificate." "Well, you have raised a difficult constitutional question" observed the person in authority, "but my word is law which no one can dispute, and I shall get the Assembly to agree. You see, they do not understand these things. I shall cancel the original marriage certificate and issue a duplicate certificate to you".....

Shri K. Santhanam: Sir, on a point of order, I think these remarks are calculated to cause contempt and disrespect to this House. He cannot accuse this House of dealing with such matters or of conniving at such procedure.

Mr. Naziruddin Ahmad: That is my way of looking at it.

• **Mr. Speaker:** The objection is not to the way of looking at it but to the way it is expressed. I think the Honourable Member is perfectly right. The insinuation is not one which should be made; he himself is a member of the Constituent Assembly.

Mr. Naziruddin Ahmad: That is how the Honourable Minister looks upon some members. The whole thing is that there is a title deed standing in the name of the Nawab.

Mr. Speaker: That is the same argument repeated over again, and perhaps in a bitter and derisive manner which does not go to maintain the dignity of the House.

I will put the amendment to the House. Amendment moved:

"That in sub-clause (1) of clause 3 of the Bill, the words 'His Highness the Nawab of Junagadh, or' be omitted."

مولانا حسرت موہانی : جناب عالی ! کل ہمارے لا منسٹر صاحب نے چند باتیں ایسی کہیں کہ جن کو سئلے کے بعد مجھکو چند الفاظ بیان کرنے کی ضرورت واقع ہوئی - ورنہ میرا ردہ اس معاملہ پر بولنے کا نہیں تھا - سب سے پہلی بات جو انہوں نے اپنے کلیمز claims کو ثابت کرنے کے لئے کہی وہ یہ تھی کہ نواب جو نا گڑھ نے خود انڈین گورنمنٹ سے درخواست کی کہ وہاں کا ایڈمنسٹریٹیشن وہ سنبھالیں - اس لئے اس سے زیادہ کہا کلیم claim ہو سکتا ہے - لیکن میں یہ پوچھنا چاہتا ہوں کہ جب اس نے پاکستان کو accede کیا تھا - اور خود نواب اور دیوان کراچی میں گئے تھے - تو ان حالات میں گورنمنٹ آف انڈیا کو وہاں کا ایڈمنسٹریٹیشن انہوں نے کہوں سپرد کیا - اس کی جو ایک وجہ ہے وہ یہ ہے کہ اس کے سامنے بیان کرتا ہوں -

Mr. Speaker: I am afraid that this question is not relevant at all.

مولانا حسرت موہانی : جناب عالی ! نواب صاحب نے خود جو نا گڑھ کا ایڈمنسٹریٹیشن انڈین گورنمنٹ کے سپرد دیا - یہ ٹھیک ہے - اور جو اس کی وجہ ہے وہ میں ایک منٹ میں بیان کرتا ہوں - اصل قصہ یہ ہے کہ بمبئی کے چند آدمیوں نے اپنی طور پر ایک Provisional گورنمنٹ بنا کر نواب صاحب جو نا گڑھ کی جتنی پراپرٹی وہاں پر تھی اس کو ضبط کر کے اپنا قبضہ کرنا شروع کیا اور جس پراپرٹی پر ان کو authority نہیں تھی اس کو dispose of کرنا شروع کیا تھا - اور اس طرح سے وہ اس کی پراپرٹی کو برباد کرنے لگے تھے - اسی وجہ سے نواب جو نا گڑھ نے less evil کے طور پر آپ کے انصاف پر بھروسہ کر کے یہ بہتر خیال کہا کہ جو نا گڑھ کا ایڈمنسٹریٹیشن گورنمنٹ آف انڈیا کے سپرد کیا جائے - جتنی جائداد اس کی وہاں پر تھی اس پر بمبئی کے چند لفنگوں نے ایک پروویژنل گورنمنٹ بنا کر قبضہ کرنا چاہا تھا -

Shri Krishna Chandra Sharma: Sir, *Lafanga* is not a parliamentary word and I think the Honourable Member should not have used it.

Mr. Speaker: Yes. He should withdraw that word.

Maulana Hasrat Mohani: Sir, I withdraw it.

مولانا حسرت موہانی : تو جب بمبئی کے چند آدمیوں نے اُس کی جائداد پر قبضہ کرنا چاہا تو نواب صاحب نے آپ کے انصاف کا بھروسہ کیا - اُنکا خیال تھا کہ آپ اُن لوگوں کو ایسا نہیں کرنے دیں گے - لیکن جو کچھ وہ لوگ کرنا چاہتے تھے آپ اُس سے زیادہ کرنا چاہتے ہیں - ایک شعر اُردو میں ہے - اور جب ایسی باتیں ہوا کرتی ہیں اور اُس قسم کے واقعات پڑھ آتے ہوں وہ ٹھیک fit in کرتا ہے - وہ شعر یہ ہے -
میں نے چاہا تھا کہ حاکم سے کرونگا فریاد
وہ بھی کبھت تیرا چاہلے والا نکلا

اُنہوں نے تو آپ کے سپرد وہاں کا ایڈمنسٹریشن اس لئے کیا تھا کہ وہ اُس پراویڈنل گورنمنٹ کے مطالب سے بچ جائیں - لیکن آپ تو اُن سے بھی زیادہ بے انصافی کرتے ہیں - کیا ایسا یہ مطلب ہے کہ نواب یا دیوان یا پراویڈنٹ سکریٹری کا کوئی بھی اب claim نہیں ہے - کہ وہ اپنے claims کو عدالت میں لے جائیں - آپ یہ کہتے ہیں کہ اس بل سے کوئی فبق نہیں پوتا ہے - اور اُن کو حق حاصل ہے کہ وہ اپیل کر لیں - لیکن میں یہ کہتا ہوں کہ اس بل کی رو سے اُن کو کوئی حق ایسا کرنیکا نہیں رہ جاتا ہے - یہ آپ اُن پر ایک قسم کا آرڈیننس جاری کر رہے ہیں - اُن کا یہ حق باقی رہ جاتا ہے کہ وہ ہائی کورٹ میں Habeas corpus کے لئے اپیل کر سکتے ہیں - لیکن یہاں پر آپ یہ پاس کر رہے ہیں کہ ہائی کورٹ کو اپیل سنانے کا کوئی اختیار نہیں ہے - تو اس حالت میں Habeas corpus کا اگر حق باقی رہ بھی جاتا ہے تو وہ meaningless ہے - ہمارے آنریبل لاملسٹر کہتے ہیں کہ آپ اس کو سمجھ نہیں سکتے ہیں - میں اُن سے یہ کہونگا کہ آپ خود نہیں سمجھ رہے ہیں - یعنی اس کا مطلب یہ ہے کہ آپ ایک طرف تو یہ کہتے ہیں کہ کوئی عدالت اُن کے معاملہ کو سن نہیں سکتی ہے - اور دوسری طرف آپ کہتے ہیں کہ اُن کا حق باقی ہے - اور وہ اپیل کر سکتے ہیں - اور اپنے حق کو قائم کر سکتے ہیں - لیکن میں یہ کہونگا کہ ہرگز ہرگز اُن کو ایسا کوئی حق باقی نہیں رہ جاتا ہے -

اب ایک اور بات ہے وہ یہ کہ سمجھ لیجئے کہ آپ نواب جونہ گوہ کو خارج کرنا چاہتے ہیں یا نکالنا چاہتے ہیں - تو میرا اس سے کوئی تعلق نہیں ہے - لیکن میں آپ سے یہ کہتا ہوں کہ International Law میں دنیا کے کسی ملک نے اس قسم کی کارروائی جیسی کہ آپ کرتے ہیں نہیں کی ہے - مثال کے طور پر میں سلطان ترکی کا واقعہ بیان کرتا ہوں - حالانکہ وہ خلیفہ مسلمان تھے لیکن اُن کو ترکی سے نکل دیا گیا - اُنکی ساری

[مولانا حسرت موہانی]

جاہداد ضبط کر دی گئی اور جو کچھ سٹیٹ کی جاہداد تھی وہ لے لی گئی۔ لیکن جتنا سرمایہ آٹکا اپنا دوسرے مسالک کے بلکوں میں تھا۔ آج تک کسی کی ہمت نہیں ہوئی کہ اُس پر کوئی claim کر سکے۔ کیا ترکی گورنمنٹ جو اُن کے lawful successors تھے اُن سے یہ نہیں لے سکتے تھے؟ لیکن ایسا نہیں کیا گیا اور سلطان عہدالصمد کی اولاد کا جتنا روپیہ قہر مسالک کے بلکوں میں تھا اُس کو اُن کی پراپریٹی جاہداد خیال کیا گیا۔ اور ترکی گورنمنٹ نے اُس پر اپنا حق قائم نہیں کیا۔

میں اپنے دوست مسٹر نظیر الدین احمد کے ان الفاظ کو دہراتا ہوں جو کہ انہوں نے بیان کئے ہیں کہ آپ کہتے ہیں کہ "my word is law" لیکن میں یہ کہنا چاہتا ہوں کہ ہم اس چیز کو ہرگز برداشت کرنے کے لئے تیار نہیں ہیں۔ اگر آپ کو اپنا claim قائم کرنا ہے تو

"You are free to go to High Court and establish your claim. The Nawab will also be free to go to High Court to establish his claim and failing that we will go to Federal Court and establish our claim there. What right have you got to preclude any court to take any action or hear any claim on behalf of any body"?

میں ان چند الفاظ کے ساتھ اپنے معزز دوست نظیر الدین صاحب کی تائید کرتے ہوئے ایک بار پھر آنریبل لائسنسٹر کی Sense of justice کو اپیل کرتا ہوں۔ کہ ایسی بات نہ کی جائے۔ کہ جو آج تک دنیا میں نہیں ہوئی ہے۔ آپ ایسا کریں جس سے کہ ظاہر ہو کہ آپ انصاف کرتے ہیں۔ آپ تو انصاف کرنے کا دعویٰ کرتے ہیں۔ اس لئے آپ کو چاہئے کہ اُس پر عمل کریں۔ جو دو متضاد چیزیں آپ اس ہمارے میں عمل میں لارہے ہیں وہ نہیں چل سکتی ہیں۔

(English translation of the above speech)

Maulana Hasrat Mohani: (U.P.: Muslim): Sir, yesterday our Law Minister made certain observations which I feel necessary to reply to in a few words, otherwise I had no intention of speaking on this matter.

The first thing that he said to prove his claims was that the Nawab of Junagadh himself requested the Government of India to take over the administration of his State. What better claim could there be than this? I want to ask, since the Nawab had acceded to Pakistan, and he and the Dewan left for Karachi why did they under such circumstances entrust the administration of the State to the Government of India. I am laying before the House a reason for this.

Mr. Speaker: I am afraid that this question is not relevant at all.

Maulana Hasrat Mohani: Sir, it is true that the Nawab Sahib himself entrusted the administration of Junagadh to the Government of India. I am telling you its reason in a minute. The fact is that a few persons from Bombay informally set up a Provisional Government. They took possession of Nawab Sahib's property and began to dispose it of. In this manner they started

destroying his property, and only for this reason as a lesser evil and trusting your sense of justice the Nawab of Junagadh thought it better to entrust the administration of Junagadh to the Government of India. Having formed a Provisional Government some *Lafangas* (Loafers) of Bombay wanted to take possession of the whole of his property.

Shri Krishna Chandra Sharma (U.P.: General): Sir, *Lafanga* is not a parliamentary word and I think the Honourable Member should not have used it.

Mr. Speaker: Yes, he should withdraw that word.

Maulana Hasrat Mohani: Sir, I withdraw it. When a few persons of Bombay wanted to take possession of the whole of his property the Nawab Sahib trusted in your sense of justice. He thought you would not allow them to do so. But, you want to do more than what they wanted to do. There is a verse in Urdu poetry, and that exactly fits in when such things happen and such events occur. That verse is:

“Men na cháhá thá keh hakím so karungá faryád
woh bhi kambakht terá cháhne walá niklá”

I wanted to comply to the Magistrate of my beloved's apathy towards me; but the wretched Magistrate himself proved to be in love with my beloved.,

The Nawab entrusted the administration of his State to your care in the hope that he would be protected by you from the tyrannical acts of the Provisional Government. But you surpass them in doing injustice. Does this mean that there is now no right of either the Nawab, the Dewan or the Private Secretary to take their claims to a Court? You say that this Bill makes no difference in their right to appeal. But I say that in the face of this Bill they are left with no right to do so. You are imposing a sort of ordinance upon them. The only right they are left with is to appeal, to the High Court in *Habeas Corpus*. But here you are passing that the High Court has no authority to hear the appeal. In such circumstances if any right for *Habeas Corpus* at all is left it is meaningless.

The Honourable Minister of Law says “you cannot understand this matter”. I will say to him “you are not understanding yourself”. All what it means is that on the one hand you say that no court can hear their complaint and on the other you say that their right still remains and they can appeal, and can establish their claim. But I will say that absolutely no right of appeal is left to them.

There is one more matter. Supposing you want to dethrone or to turn the Nawab of Junagadh out of his State. I have no concern with this matter. But I may tell you that no country in the world so far as International Law is concerned had taken such an action as you have taken. For instance I may refer to the case of the Sultan of Turkey who though he was the Caliph of Muslims yet he was turned out of Turkey. The whole of his property was confiscated, and the State property that was in his possession was seized. But no one could venture to lay claim over his personal wealth which he had in deposit in the banks in foreign countries. Could not the Government of Turkey, the lawful successors, take it from him? But it was not done. All money belonging to the descendants of Sultan Abdul Hamid which was in the banks of foreign countries was considered as his personal property and the Government of Turkey did not lay their claim for it.

I repeat the words of my friend Mr. Nazir-ud-Din Ahmed who said that your word was law. I wish to say that we are not at all prepared to tolerate this! If you have to establish your claim “you are free to go to the High Court and establish your claim. The Nawab will also be free to go to High Court to establish his claim and failing that we will go to Federal Court and establish our claim there. What right have you got to preclude any court to take any action or hear any claim on behalf of any body.”

[Maulana Hasrat Mohani]

With these few words in supporting my Honourable friend Mr. Nazir-ud-Din's motion I once again appeal to the sense of justice of the Honourable Minister for Law and say that no such thing should be done which has not been attempted in the world so far. You should so behave as to show that you are doing justice. You claim to do justice, you should, therefore, do what you say. The two inconsistent nistic policies which you are following at present in this matter will not do.

Shri K. Santhanam: I have reason to express my surprise and disappointment at the manner in which the Honourable Member has attempted to deal with this Bill. No one can have any objection to his opposition to the Bill or his advocacy of the cause of the Nawab of Junagadh. But he has attempted in various ways, direct and indirect, to misrepresent the object of the Bill and to attribute motives to the Government which has brought forward this Bill.

If you look at the statement of objects and reasons it is said:

"Shortly before this His Highness Nawab of Junagadh left the State and took away with him considerable property belonging to the State including securities and shares. These were in the name of His Highness the Nawab but are the property of the State. In order to remove all doubts as to the State's title to the said securities,"

This Bill is brought because unless this Bill is passed there is danger of the entire amount being frittered away by the Nawab. By vesting it in the hands of the Administrator nothing happens. Even if the Nawab comes back or if part of the amounts are found to be his private property, there is a chance of its being restored. But if it is frittered away, then the people are deprived of the entire property. It is to safeguard the public interest in this property that this Bill is brought forward and I do not see how anyone can object to it. If afterwards however the Nawab comes back or if he puts forward a claim that certain properties belong to him, there is always a chance for a remedy. But if the Bill is not passed the whole thing will go out of the hands of the people and the State. Therefore, the Bill is quite essential and it is not right to say that it is a sort of autocratic confiscation and that this democratic legislature is trying to do something very immoral or abnormally wrong in passing this Bill: and that is wholly unwarranted, and I suggest that this House.....

Maulana Hasrat Mohani: And why?

Shri K. Santhanam:should pass this Bill.

Maulana Hasrat Mohani: Why is it unwarranted?

Mr. Speaker: Order, order.

The Honourable Dr. B. E. Ambedkar: I had to a large extent replied to the arguments which were urged by my friend, Mr. Naziruddin Ahmad the day before yesterday when he tabled this amendment to sub-clause (1) of Clause 3. I do not think I have anything to add to that. I told him the day before yesterday that so far as I am able to read Clause 3, or the Preamble to which he has made reference, I certainly do not see any evidence or even a ground for suspicion that the Government of India proposes to confiscate for its own use the securities which are mentioned in this Schedule.

Mr. Naziruddin Ahmad: I did not say for his own use but for the use of the State of Junagadh.

The Honourable Dr. B. E. Ambedkar: As I pointed out to him the day before yesterday that the Government of India does not even propose by the words they have used in Clause 3 or in the Preamble to erect in the very body of the Statute what is called an "irreversible presumption" which would not be within the ambit of Clause 6 contained in this Bill and by which it would not be possible for anybody, including even the Nawab of Junagadh to claim before the proper authorities such right, title and interest as he may possess.

All that we are doing by this Bill is to invest these properties in the Administrator. He asks: "Why does he want to invest it?" The answer is a very simple one. Because unless they are exclusively vested in the Administrator he would not be able to deal with the property in the banks and others who have custody of this will not be able to deal with it and other people may be free to deal with this property: they may squander away the money, as my friend, Mr. Santhanam has pointed out. This is what the Bill seeks to do, and the fear that he has expressed that the Government of India has a sort of clandestine motive, which they are not prepared to avow openly, that they wish to confiscate this property of the Nawab, is purely a figment of the imagination, if he will permit me to say so. Therefore, I do not think that his amendment is necessary and I am not prepared to accept it.

Mr. Speaker: The question is:

"That in sub-clause (1) of clause 3 of the Bill, the words 'His Highness the Nawab of Junagadh, or' be omitted."

The motion was negatived.

Mr. Naziruddin Ahmad: Sir, I move:

"That in part (a) of sub-clause (2) of clause 3 of the Bill,—

- (i) the comma after the word 'deposits' be omitted, and
- (ii) the words 'securities and shares' be omitted."

These words according to the line of reasoning which I have adopted are unnecessary and should be deleted. With regard to the comma, it is to restore the linguistic balance of the sentence in case the substantive amendment is accepted.

Mr. Speaker: But the question will arise, whether, in view of the rejection of the other amendments, this is permissible.

Mr. Naziruddin Ahmad: If it is rejected on that ground I have no grievance. The whole matter has been argued.

Mr. Speaker: Therefore, I cannot put it. It becomes inconsistent.

Mr. Naziruddin Ahmad: I agree.

Mr. Speaker: Now about the punctuation.

Mr. Naziruddin Ahmad: That does not arise in view of the rejection of the substantive amendment.

Mr. Speaker: I do not accept it as admissible in view of the previous decision of the House with regard to amendment No. 6.

The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I now move my amendment for the deletion of clause 4.

Mr. Speaker: The Honourable Member need not move it. He can oppose the clause.

Mr. Naziruddin Ahmad: All right. It is the same.

Clause 4 provides for issuing duplicate securities in respect of Government securities. Perhaps the securities are with the Nawab and therefore duplicate securities are being authorised in order to protect the Reserve Bank and prevent it as a banker from performing the obligations imposed upon a banker in a

[Mr. Naziruddin Ahmad] matter of this description. I submit that the issue of duplicate securities is another indirect way of preventing the functioning of the ordinary right of an individual in whose name properties stand. In fact it is indirectly attempting to prohibit him from using the properties in his own way. I submit that this is a thing which cannot be allowed.

Mr. Speaker: In fact the whole argument is over.

The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Mr. Speaker: The amendment on this clause is the same following the same course and is barred by the previous decision. Even the arguments will be the same. The amendment is consequential to his scheme of amendments. Even if it may not be so barred technically, any further arguments on the question are barred.

Mr. Naziruddin Ahmad: I merely would mention the fact that clause 5 is equally objectionable in that it prohibits transfer of shares. It is trying to force upon a man certain obligations which the ordinary law does not impose upon him. No justification or reason has been assigned as to why the ordinary right of dealing with property can or should be prevented. With these words I oppose clause 5.

Mr. Speaker: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, I have a substantive amendment. I have handed over to you a corrected draft. In fact I have conceded certain matters during argument and I do not wish to incorporate those portions which I had relied upon to remain in this amendment. I beg to move:

"That for clause 6 of the Bill, the following be substituted:

6. *Suits*.—(1) The Administrator, His Highness the Nawab of Junagadh or any other person claiming any right, title or interest to Part I of the Schedule, may institute a suit in respect thereof in the High Court of Bombay.

(2) The Administrator, the Reserve Bank of India or any other person claiming any right, title or interest in the securities described in Part II of the Schedule may institute a suit in the said High Court for a declaration of title or other appropriate reliefs in respect thereto.

(3) The Administrator, the companies described in column 2 of Part III of the Schedule, and any other person claiming any right, title or interest in the shares described in the said Part may institute a suit in the said High Court for a declaration of title and other appropriate reliefs in respect of the same.

(4) An appeal shall lie to the Federal Court of India against any decision of the High Court under sub-sections (1), (2) and (3) and its decision shall be final.

(5) Except as otherwise provided in this section, no suit or proceeding shall lie in any other Court."

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. Naziruddin Ahmad: Sir, I have proposed my amendment to clause 6. With regard to clause 6 my contention is that it bars all suits in respect of any property described in the Schedule. I was extremely amused when I was told by the Honourable the Law Minister and by Mr. Santhanam that it is not the object of the Government to expropriate anything but keep it in the hand of the Administrator and vest it in him so that the property may

not be frittered away; that the property may be taken for the use of the state if it ultimately turns out to be the property of the State or returned to the Nawab if the property really belongs to him; that it is not the object to bind him hand and foot to any decision that the Government might take. The effect of sub-clause (1) of the clause 6 of the Bill is that it prevents all suits, it prevents the jurisdiction of all Courts from deciding anything in respect of the properties described in the Schedule. I think it completely bars the jurisdiction of Courts. I shall read sub-clause (1). It says:

"No Court shall have jurisdiction to entertain any suit or other proceeding in respect of any of the property described in the Schedule or to enforce any liability in respect thereof, otherwise than at the instance of the Administrator."

Sir, can there be anything more fantastic? It is said that the Administrator will hold all the property which are for that purpose to be vested in him. Yet it is here provided that no suit shall lie 'except at the instance of the Administrator'. Why on earth will the Administrator go to court? He has the property in his hand, vested in him by the authority of this Bill. For what purposes are the properties vested in him under clause 3? It is that he is entitled to have power to deal with and dispose of the said property "as such Administrator". I say that the property belongs to the State; you vest the property in the Administrator and you say that he shall have power to deal with and dispose of the property as such Administrator for the purpose of the State. And you say in clause 6 that no Court shall have jurisdiction to entertain any suit in respect of any of these properties. No suit lies in respect of any property described in the Schedule; and if there was anything of a gap it is said "or to enforce any liability in respect thereof"; and the most fantastic thing is the expression "otherwise than at the instance of the Administrator". If any suit is to lie it should only be against the Administrator and not at the instance of the Administrator. Yet power is given to institute a proceeding 'at the instance' of the Administrator. I have never seen anything more fantastic than this. He would be the defendant. He holds the property in his custody vested in him by law. He holds the whip hand and does not need to go to Court. And yet it is provided that a suit must lie only 'at the instance' of the Administrator! (*Maulana Hasrat Mohani*: "Hear, hear"). Why not at the instance of other parties, Sir? But they are barred. I would respectfully ask the Honourable the Minister for Law just to point out whether there is any way for any party other than the Administrator in his own right to go to Court with a view to getting any relief. If it is the object to expropriate the property, to confiscate it, do so in the ordinary way. Then other considerations will appear. Mere declaration that the property belongs to the State is most indirect and I do not think it is quite honest.

While addressing the Minister for Law with regard to this I certainly do not make any reflection on him personally. His intellect, his legal sense, I feel, is against clause 6, against the very spirit of the Bill. But after all, he is an official and he has sometimes reluctantly to support the decision of the Cabinet before whom these considerations may not have been submitted. What an individual as such cannot do a Minister has to do.

Prof. N. G. Ranga (Madras: General): Pōor man!

Mr. Naziruddin Ahmad: Poor man as Professor Ranga describes him, he has to do according to the decision of the Cabinet, or perhaps the Department. In these circumstances I appeal to Dr. Ambedkar, the great author, the great lawyer, the great scientist, a brilliant student.

Shri H. V. Kamath (C.P. and Berar: General): And great what not.

Mr. Naziruddin Ahmad: And great what not, as Mr. Kamath suggests, I appeal to him to tell me and I appeal to you, Sir, to tell me—and I shall sit down, withdraw all objections and apologize to the House for having taking

[Mr. Naziruddin Ahmad]

its time—is there any way for any person which allows him to go to Court to have his claim decided?

After all, what is the hesitation, what is the fear in coming to Court? Are you afraid of the Court? I believe that a man who is wholly unsophisticated will suspect that the Honourable Minister is afraid of going to Court because in a Court of law he has no legs to stand upon. It cannot be that he really suspects the integrity or the intellectual powers of the Court. I have in my amendment suggested that a suit might be instituted in the Bombay High Court, which is absolutely beyond suspicion, and then provide an appeal to the Federal Court. Can you say with any show of justification or decency that this Court even cannot be trusted? If your case is really good, can you not trust the High Court of Bombay and the Federal Court on appeal to say so? It is because you are conscious of some real difficulty in trusting the Court to call a spade a spade, that you do not want to do that. Am I not justified in trying to incorporate in the Preamble this ironical suggestion? The irony lies in this. You say the Administrator can sue, but he can not be sued. He is only to be sued against. So you prevent anybody from coming to Court and prevent the Court from deciding the matter, lest only by prohibiting the party from going to Court, the Court might exercise its inherent jurisdiction. So you say 'no Court will have jurisdiction'. Courts exist to decide matters but there is no authority in the Bill to do so and this is really fantastic. What is the remedy you provide? It is in sub-clause (2):

"Any claim in respect of such property by any person other than the Administrator may be submitted to the Central Government, whose decision in the matter shall be final."

So you think you are better fitted to give judicial consideration and an impartial, proper and better judgment than even the High Court or even the Federal Court. Does it not amount to suppressing the function of the Courts? That is why I was tempted to suggest not in ironical mood but in sheer bitterness all those things in the amendment.

I am proud to belong to the Indian State. I have taken the oath to serve the people of India, but I am ashamed to say this is not the way I can be really serving the people of India. After all justice is greater than 229 lakhs of rupees: that amount will not take away anything from the normal resources of the country, but I am very much concerned over the reputation of this government and the reputation of this legislature. After all we have an international reputation to maintain. We are a free nation, we have fought hard. We have suffered—not that I did much personally. I must say that I did not do much—but each member of the Government suffered much. (*An Honourable Member*: "Not each Member".) In fact we cried for justice, we obtained liberty, and at the moment of victory we behave exactly as the bureaucrats would do or the British Government would do. I submit that you have not really eliminated British bureaucracy. You have only supplanted the British bureaucracy by a kind of brown bureaucracy. I submit that the principles of law and justice should be upheld. I think in a really properly constituted state, there are three functions which should be kept independent. One is the Executive. The executive must function. The second is the Legislature. The legislature must also function freely, and not merely at the instance of the Executive. Thirdly and most important is the Judiciary. Its rights, its independence and its functions should be absolutely kept intact. In a state where the executive prevails, there is no liberty: in a state where the legislature alone prevails, there is no justice: in a state where justice does not prevail, there is no liberty. After all, if you do injustice to a man, if the executive does injustice, then if he is

debarred from approaching a Court of law, he has no liberty. How could you with good grace supplant the authority of the Court? And you do not trust even the Federal Court which is sitting next door. Therefore questions much higher than Rs. 2,29,000,000, the face value of the government securities are at stake. In fact higher principles are in issue before us. I would ask every Honourable Member of the House to consider. I have had the privilege of talking the matter over to a few and I know that their silent sympathies are with these amendments.

Prof. N. G. Ranga: Question.

Mr. Naziruddin Ahmad: Question if you will. My feeling is that these general appeals for liberty and justice or appeal to Court cannot go in vain. There is of course the party machinery working, but I believe the Honourable the Law Minister will really agree with me in the innermost recesses of his heart, but I beg to submit one specific question to him. Do you keep the property in the hands of the Administrator to keep the *status quo*, as you have kindly admitted, or do you want to expropriate it in fact though not in so many words? Have you kept any judicial remedy for the party? It may be that the Nawab is bankrupt—there may be equitable rights against him with regard to these properties—nobody knows. Have you kept any loophole or the least hope for any of these people—this great vagabond and other claimants—upon him,—bankers and others—for them to come to Court? You have prevented Courts from exercising their normal jurisdiction. You have prevented any man from going to it and you say the claim must be made to Government whose decision should be final. Can you ask a man who is aggrieved to go to a man for redress who has given a judgment, who has confiscated his property, can you ask the injured man to go to one who has injured him to be the judge? Can you be a judge in your own cause? That is against the principles of the Constitution. Sir, about 30 years ago there was a young cadet in the Navy.....

The Honourable Dr. B. R. Ambedkar: We do not want stories.

Mr. Naziruddin Ahmad: It is not a story, it is a fact. That cadet was believed to have committed theft and forgery, and he was dismissed. His father wanted the matter to be enquired into in his presence. That was refused. He wanted him to be prosecuted and openly tried and found guilty. That was refused. Sir Edward Carson fought for two years and with a great deal of personal effort he brought the matter to a court and the man was prosecuted. Then, after cross-examination of some witnesses, the Government who had been resisting the process all through, absolutely withdrew their objection and allowed the boy to be found not guilty. The boy joined the first world war and was killed in the cause of his country. That was the case of Archer-Shee.

This is how when even the greatest Government tried to decide their own case they were obsessed by certain preconceived ideas which it was difficult for them to shake off. So, I submit that if the Government of India, which in this case means the States Department—which again means the Secretariat, have taken a particular view, if they have committed themselves to a particular view that the properties belong to the State, is it possible for them to come to any other view?

But the matter should be decided on principles of justice, equity and good conscience. If the Honourable the Law Minister can show me or satisfy you, Sir, that there is a way to go to Court, I shall sit down and apologise.....

The Honourable Dr. B. R. Ambedkar: There is a way.

Mr. Naziruddin Ahmad: The way is to go to the Government!

The Honourable Dr. B. R. Ambedkar: If you will read it carefully, you will see there is a way.

Mr. Naziruddin Ahmad: There is an argumentative way, but so far as I can see there is no other way. In fact, if there is a way then that shows that you allow people to go to Court. I submit that if you do so, why not accept the amendment? The amendment is to the following effect.

In sub-clause (1), it is that the Nawab shall be empowered to institute a suit to the title if any. Under sub-clause (2), the Reserve Bank and the other authorities may institute a suit if they like, to declare title. The third sub-clause says that the Nawab and others interested in Part III of the Schedule may institute a suit. Sub-clause (4) says that an appeal shall lie to the Federal Court against the High Court of Bombay. The last sub-clause says that except as otherwise provided in this section, no suit or proceedings shall lie in any other Court.

Sir, if the Honourable Minister really thinks that suits should not be barred, then why not accept the amendment or some other draft on the lines of this? I believe that the opinion of the Honourable the Law Minister, expressed here even with the greatest force will not affect the interpretation in any way, but I shall ask the Honourable Minister to satisfy the Honourable the Speaker and if he is satisfied I shall be satisfied.

Mr. Speaker: Amendment moved:

“That for clause 6 of the Bill, the following be substituted :

‘6. *Suits*.—(1) The Administrator, His Highness the Nawab of Junagadh or any other person claiming any right, title or interest to Part I of the Schedule, may institute a suit in respect thereof in the High Court of Bombay.

(2) The Administrator, the Reserve Bank of India or any other person claiming any right, title or interest in the securities described in Part II of the Schedule may institute a suit in the said High Court for a declaration of title or other appropriate reliefs in respect thereto.

(3) The Administrator, the companies described in column 2 of Part III of the Schedule, and any other person claiming any right, title or interest in the shares described in the said Part may institute a suit in the said High Court for a declaration of title and other appropriate reliefs in respect of the same.

(4) An appeal shall lie to the Federal Court of India against any decision of the High Court under sub-sections (1), (2) and (3) and its decision shall be final.

(5) Except as otherwise provided in this section, no suit or proceeding shall lie in any other Court.’”

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, I never wanted to intervene in this debate. But my friend with the apparent smiles and sweet speeches has unfortunately proved to be the supporter of a Prince who left six rupees in his iron safe and went away to Pakistan leaving his people to the wolves. I want to know from my friend whose cause he is trying to support in this House and for whom he is invoking all the principles of justice, humanity and good conscience etc. Does he say the State of Junagadh was such a pauper State as not even to leave a few thousand chips in its coffers? What steps has my friend taken till now, or what steps has he suggested to this Government, on behalf of the dumb millions of that State to recover that money from the Nawab of Junagadh?

My friend wants, in addition, to support the Junagadh Prince one-sidedly. We will assume his amendment is accepted and that the Prince can file a suit in the Bombay High Court. What will be the nature of his suit? He will say, “Though these Securities stand in my name, they do not belong to the State but belong to me ancestrally as my private property”. Who ought to be the defendant? Are not the people of the State the defendants?

There is only an Administrator, an interim Receiver. The people will come by their own and have their own Government. Then the Nawab of Junagadh can certainly fight that Government which comes into being and recover this property if it really belongs to him as his private property. Does not my

friend, with all his experience in the Court, know that the Receiver is only there for the purpose of safeguarding the interest of the successful claimants. We will assume my friend's amendment is accepted and the Bombay High Court is given jurisdiction. Thus, if the Junagadh Prince proves that it is his private property, can there be a counter-claim on behalf of the people of the State?

Mr. Faziruddin Ahmad: Yes.

Shri M. Ananthasayanam Ayyangar: Sir, I beg to differ from him; I am glad he is not the Judge of that High Court. Can they counter-claim in a suit for certain Securities taken by the Administrator merely on the ground that it is personal property? Can they counter-claim that so much money has been taken away by the Junagadh Nawab? I still doubt it.

You will see, Sir, that inspite of two days having been taken by my friend expecting also support from all sides of the House for a righteous cause, he has been ignoring the rights of the people who have to be protected by the King who left them cold, who left them taking away his property. I do not want to use bad language, but unfortunately I am grieved by it. My friend says he stands here, for the cause of the righteous. Who is that righteous man? Do you want, in the twentieth century, to support a King who fled away handing over to the wolves his administration and also not leaving a single pie in the coffers of the State?

I have no quarrel with him. For me a gentleman as well as a non-gentleman shall have the right to express. I am not going to deprive even a person who is alleged with murder from exercising his right to defend himself. But this is one-sided; this is only a temporary measure for the purpose of protecting the interest of the State or the Junagadh Prince, whoever it might be, for preserving this property so that ultimately whoever could win will get it. After that State comes into its own, as a fair Government, certainly the Rajah has a right of recourse against that Government. It will never become the property of the Government of India. I am not a limb of the Government, but I can say, I am able to see, that the Government of India is.....

Shri T. T. Krishnamachari (Madras: General): Coming events cast their shadows!

Shri M. Ananthasayanam Ayyangar: Let it be; after all there is a saying in our part that a daughter-in-law threatened her mother-in-law that she would beget a child; the mother-in-law who is always anxious welcomes it. I do not know if any member of the House would refuse to be a limb of the Government if it is possible for him to be. I am not going to cast a shadow, nor be afraid of it as a ghost. Enough if I render my duties to the community and to the electorate which I represent.

Now, Sir, barring this diversion, I am coming to this point. I have heard with great interest—otherwise, I would not have taken part in the debate—

P. M. the arguments which my friend has been urging since yesterday. He wants a display of justice. Well, this is what has happened. The Preamble sets it out. One fine morning this gentleman goes away. There are troubles in any State between the Rulers and the ruled. We have as a matter of fact started trouble long ago and my friend has reaped the benefit. We have all won independence. This is the natural course of events. People and persons who have written books on "Independence" and on "Freedom", they also started trouble. So in any country it is the natural right and it is the natural interest of the people who have been suppressed to come by their own and achieve and claim a democratic form of Government.

Now, some trouble arose. This gentleman fled. To whom did he flee? My friend says "Mother India", "Dear India", "We all embrace" and so on.

But that gentleman fled not East but fled West. He looked not to his people, but to other friends. But he left one child behind. Otherwise, he would have booked him in the aeroplane and gone away. There that boy was. But is it for you to leave them, the people, and go away? All that I am saying is—I am not prepared to go into those details—in the name of humanity, those people whom he left behind ought to be protected. Now, what have we done? The property is there. The property will be safeguarded. Let the people establish their claims.

Assuming that this gentleman got away with all this property. What is the guarantee; what is the chance for these people to recover the property? My friend wants a judgment in favour of the Nawab. He does not care what happens to the people. He does not care whether they are protected; whether they are safeguarded. He says that it is wrong; it is unrighteous. He wants us to go away. Well, after all, let me tell him. The property may belong to the State. It may not belong to the Prince. Does he want to go away leaving the people unprotected and now claim all the property? But the property has not gone anywhere. It can be decided whether it belongs to him or it belongs to the people.

Mr. Naziruddin Ahmad: Who will decide?

Shri M. Ananthasayanam Ayyangar: Their own form of Government. Their own High Courts which they will set up will decide. I mean the people. He wants an unrestricted freedom for the Nawab. But how could it be? I do say that unless this restraining hand of the Administrator is there for preserving the property, all will not be well with the people. As a lawyer, my friend must know that an Administrator is only there to preserve the property. This is a thing which every lawyer who started practice yesterday should know. The Receiver is appointed for the purpose of safeguarding the interests of the party who will ultimately succeed.

Now, let me go to the other matter. There might be some persons who might claim properties as their own, i.e., apart from the Junagadh Prince and his royal family. As against the State, they may claim it. There may be those who may claim from both against the State and against the Prince. All that has happened is that the property now vests in the Receiver. The claims will be settled later on in the natural course. Therefore, we are not in a position to decide this matter now, because where is the defendant to the suit? There is only a plaintiff. The Nawab may come in later and say "This is the property left to me by my father." At present, who is there to say: "This is the property left to him by his father" or even to say "This property belongs not to him but to the State". There is nobody to come forward and defend the cause of the dumb millions of the people of the State. Nobody is there to say "The Nawab's claim is wrong. This is not his private property." I am really surprised at the manner in which my Honourable friend has taken up the time of the House. I have absolutely no objection to time being taken. Time is not material. Justice is material. But there is absolutely not a vestige of it in his speech. Therefore, Sir, I would say with a clean conscience—we can say with a clean conscience that we are supporting the cause for which he and I stand, the cause of humanity, the cause of democracy. This will be ear-marked, the property of the Junagadh State. It is the State primarily. The State belongs to the people. The sovereign is for the time being only the Head of the State. All property belongs to the State. Whether it will belong ultimately either to the people or to the sovereign or to both of them—that will be decided later on. It is absolutely out of place here. This Bill is not intended for that. This is only an interim measure for the purpose of preserving the property. As the Mover himself said, we are spending Rs. 300 crores a

year; can we not do without these Rs. 2½ crores? It is not for ourselves—this property—we are not going to share in it. It is for the people of the State. Therefore, let not this be used as a platform for arguments elsewhere. We know the person who is really injured. We know who is the person who has suffered. We are not carrying on propaganda that we have suffered. We have put a seal on our lips. Therefore, if it is only a kind of besmirching propaganda to taint the name of India, then it is all right. But it is not proper for my friend to push on this argument any longer in order to move this amendment. I ask him. I appeal to him. It is not right. It is not well-conceived. It is in the interests of the State just as it is in the interests of the Ruler that this measure has been brought forward. I hope the interest of the people is as dear to his heart as is the interest to him of one single man.

The Honourable Dr. B. E. Ambedkar: Sir, I propose to deal only with the legal aspect of the case, which has been set before the House by the Mover of this amendment. I feel grateful to him for the kind words he said about me, but I must resist the temptation of falling a victim to flattery or to praise, because I think the Clause as it stands is perfectly all right and no amendment is necessary.

The point made by my friend Mr. Naziruddin Ahmad was this—if I have understood him correctly—namely, that Clause 6 of the Bill, as it stands, completely bars the jurisdiction of a court. I believe I have correctly understood him. (*Mr. Naziruddin Ahmad:* “Yes”) I am sure that this is a misreading of this section. Clause (1) of section 6 merely says that the Court shall not exercise jurisdiction unless certain conditions are fulfilled. It does not say, if the conditions are fulfilled,.....

Mr. Naziruddin Ahmad: It says: “No court shall have jurisdiction”.

The Honourable Dr. B. E. Ambedkar: “otherwise than at the instance of the Administrator”—these last words of the clause are the most important. Therefore, the first proposition that the jurisdiction of the court is completely shut out falls to the ground. All that the Clause says is that before a court can exercise any jurisdiction with respect to the property mentioned in the Schedule, the party must satisfy certain conditions. One of the conditions is that the suit must be at the instance of the Administrator. Now, I would like to tell my friend that it is true that generally there is always a right of recourse to a court in a matter of dispute and all lawyers will agree that, as far as possible, such a right should be unrestricted. But I think Mr. Naziruddin will also agree that our jurisprudence in the last several hundred years as also the jurisprudence of other countries recognises the fact that there are cases where the jurisdiction of a court is unfettered and there are also rows of cases where the jurisdiction of the court is restricted. I can give one illustration. Take the Government of India Act. There, any number of provisions exist which prescribe that a certain thing shall not be done without the previous sanction of a particular authority. I have no doubt about it that this is a restricted right of recourse, and I am sure about it that my friend Mr. Naziruddin has never objected to such clauses as restrict the right of suit on certain previous conditions. The provisions contained in Clause 6, sub-clause (1) say that no suit shall be entertained otherwise than at the instance of the Administrator. This is nothing less than a re-statement in another form that there shall be previous sanction of the Administrator.

Mr. Naziruddin Ahmad: Suit by the Administrator; not his sanction.

The Honourable Dr. B. E. Ambedkar: Well, he may do it himself. Or he may permit some other people to do it. All that it means is that they must have the sanction of the Administrator.

[Dr. B. R. Ambedkar]

Now, Sir, why has this provision been introduced? Why is it that the Clause requires that it must be at the instance of the Administrator? I think the answer is very simple. There are cases where, for instance, there is multiplicity of litigation by different parties.—either on the same issue or on different issues. Similarly there may be cases where the suits of litigants may be purely vexatious. Now surely in a matter of this sort you do not want to give a party an unmitigated and unrestricted right of suit if that right of suit is going to be exercised in order that the result might be that either there is a multiplicity of litigation or that there are very many vexatious proceedings undertaken against the Administrator. It is for that purpose that this clause is introduced and therefore my submission with regard to sub-clause (1) is this: It does not altogether oust the jurisdiction of the Court and all that it does is to require the consent of the Administrator in order that he may see that the litigation is a *bona fide* litigation and therefore may be permitted.

With regard to the second sub-clause he says: Why should the Central Government undertake the responsibility by adjudication? Why should not the matter be left open to the High court or individual judiciary? Theoretically that is a perfectly sound argument, but what I want to ask is this. Are there no precedents in this country where laws have provided that the jurisdiction of the court shall be ousted altogether? Let me give you one or two illustrations. Take for instance, in the Bombay Province we have a law which is called "The Revenue Jurisdiction Act". If any one reads that Act, it will be found that there are hundred cases mentioned in that particular statute where the courts have no jurisdiction at all; the executive decides the matter and the decision of the executive is absolutely final. Take another illustration which I can think of and that is also from the Bombay Presidency called "The Hereditary Village Officers Act". These village officers have their rights and duties, laid down in this Act. Yet the Hereditary Village Officers Act prevents altogether these officers from going to court for enforcing their rights against Government. Take another and a very conspicuous case. Take the High Courts. By statute they were prevented from entertaining any case dealing with revenue. Even the Indian Legislature could not pass an Act conferring upon the High Courts revenue jurisdiction. All throughout India land revenues are collected by the executive, yet even when there is any wrong done by the executive the ryot has no right to go to a court of law. Therefore this question of restrictions for recourse to a court are not novel and certainly not extraordinary so far as this particular piece of legislation is concerned. There are many precedents in this country and therefore, there is really no special ground for complaint so far as the clause as it stands is concerned. There is a further point which I think my friend Mr. Naziruddin Ahmad has altogether lost sight of. I am sure that if my friend were to read the two clauses or sub-clauses of clause 6 carefully, he will see that the provisions contained in either of them do not contradict the fundamental principles which we all observe, namely that no man should be a judge in his own case. Take the case of the Administrator. The Administrator although that property is vested in him is not holding the property as a private individual, claiming any personal interest in that property. Therefore, when a proper case comes before him there is no reason to suppose that he will withhold his consent for proceeding with the litigation because he is not personally interested in that property. He is there as a trustee or as an Official Receiver and therefore there is no fear that he will be guided by any personal motive in this matter. With regard to the jurisdiction which the Government of India has claimed by reason of sub-clause (2) of section 6, my friend Mr. Naziruddin Ahmad will also realize that the Government of India does not claim this property at all. The property is the property according to them

of the Junagadh State and if any litigation were to arise, it will not be between the Junagadh State *versus* the Government of India, but it will be between the Nawab and the State of Junagadh. In that event, there is no reason to suppose that the Government of India will be guided by any personal motives of serving the interest of the people of the Junagadh State or of the interests of the Nawab and give a decision which would be not in conformity with justice, equity and good conscience. Therefore, my submission to the House is this that the provisions contained in this clause are perfectly in consonance with many other provisions which we find in the Legislative Code of this country and there is no fear that the jurisdiction vested in the Administrator or in the Government of India in respect of these matters is likely to be exercised in a prejudicial manner to the people of Junagadh State. I therefore oppose the amendment.

Mr. Speaker: The question is:—

“That for clause 6 of the Bill, the following be substituted:

6. *Suits.*—(1) The Administrator, His Highness the Nawab of Junagadh or any other person claiming any right, title or interest to Part I of the Schedule, may institute a suit in respect thereof in the High Court of Bombay.

(2) The Administrator, the Reserve Bank of India or any other person claiming any right, title or interest in the securities described in Part II of the Schedule may institute a suit in the said High Court for a declaration of title or other appropriate reliefs in respect thereto.

(3) The Administrator, the companies described in column 2 of Part III of the Schedule, and any other person claiming any right, title or interest in the shares described in the said Part may institute a suit in the said High Court for a declaration of title and other appropriate reliefs in respect of the same.

(4) An appeal shall lie to the Federal Court of India against any decision of the High Court under sub-sections (1), (2) and (3) and its decision shall be final.

(5) Except as otherwise provided in this section, no suit or proceeding shall lie in any other Court.”

The motion was negatived.

Mr. Speaker: The question is:

“That clause 6 stand part of the Bill.”

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7 was added to the Bill.

Shri T. T. Krishnamachari: Sir, I move. —

“That after clause 7 of the Bill, the following new clause be added as clause 8 and the existing clause 8 be renumbered as clause 9:

8. The Central Government may from time to time add to the items of property included in the Schedule by notification in the official Gazette and on such notification such property shall be deemed to have been always included in the Schedule.”

Sir, the explanation for this amendment need not be elaborate, because there might be some property which has not come to the notice of the Administrator and may have to be included at a later date. It will serve the purpose, if there is any such property, if the mere fact that so far no such property has been discovered is not a bar to this amendment; it does however strengthen the hands of the Administrator to better serve the purpose of the Bill. Sir, I move.

Mr. Speaker: Amendment moved:

“That after clause 7 of the Bill, the following new clause be added as clause 8 and the existing clause 8 be renumbered as clause 9:

8. The Central Government may from time to time add to the items of property included in the Schedule by notification in the official Gazette and on such notification such property shall be deemed to have been always included in the Schedule.”

Mr. Naziruddin Ahmad: I have ventured to oppose this amendment in spite of the passionate appeal of my Honourable friend Mr. Ananthasayanam Ayyangar. I should submit that there is a good case, a very clear and perfectly straightforward case for opposing the proposed clause 8. Sir, the properties that are already found to belong to some of the officers of the State and standing in the name of the Nawab and other persons have already been listed. This amendment, however, seeks to empower the Government to include anything else that it thinks fit. Without knowing what those properties are, it would be impossible for us to agree to it. In fact whether the property is fit to be included in the Schedule or not depends on one fundamental basis which is that the property belongs to the State. We have already seen how property standing apparently in the name of an individual has been deemed, by a spectacular piece of logic, to be the property of the State. My learned friend Mr. Ayyangar played upon the feelings of the House by raising the question of sentiment. In fact in deciding questions of title or principle sentiment has no place. In these circumstances I beg to submit that unless the House knows what the other property could be it is impossible to allow Government to include things within the Schedule. I submit, Sir, that if any property is discovered later on that should be included in the Schedule by an amending Bill; this is not the proper stage to include a hypothetical property without knowing the nature or the identity of the property or the nature of the title. I submit this is a dangerous principle; in fact if it is possible for a legislature to delegate all its wisdom and all its power to the Government, strange and wonderful consequences will follow; in fact it is a principle which is highly detrimental to the development of self-Government. A question of title of such great importance should not be allowed to be dealt with by Government in the privacy of their official Chambers. I feel I must oppose this amendment even at the risk of being characterised as a friend of a great vagabond, and things of that type. I have no sympathy for him; if you find that he has misruled you can try him, hang him and guillotine him and confiscate his property; but do not do the act of confiscation in an indirect way. I submit, Sir, the issue is plain and it cannot be got rid of by mere questions of sentiment. After all the title should be decided, and decided best by a Court of law. If there are any counter-claims against him I declare, with all the little authority that I possess, that any claim will be maintainable against him. The irony is that any claim by him will not be maintainable though certainly there is no law barring any claim against him. The Honourable the Law Minister said that there is a way for a suit; that is really a suit by the Administrator and not with his sanction. I have fully conceded the authority of the Administrator, but he is a party who is the opponent. There is no right for any party to come in except at the instance of the man who is interested. With regard to the disinterestedness of the Government of India that is absolutely plain, but you are taking sides in a thing in which you are interested though for the State of Junagadh. I therefore submit that this is a premature stage at which this new clause should be introduced. If anything worth including comes to light it can be included by the Government by means of an Ordinance which may be subsequently ratified by the legislature.

The Honourable Dr. B. E. Ambedkar: Sir, I accept the amendment.

Mr. Speaker: The question is:

"That after clause 7 of the Bill, the following new clause be added as clause 8 and the existing clause 8 be renumbered as clause 9:

"8. The Central Government may from time to time add to the items of property included in the Schedule by notification in the official Gazette and on such notification such property shall be deemed to have been always included in the Schedule."

The motion was adopted:

New clause B was added to the Bill.

Clause 9 (existing Clause 8) was added to the Bill.

Mr. Speaker: With regard to part I of the Schedule and item (3) therein, in respect of which Mr. Naziruddin Ahmad gave notice of an amendment, he himself has withdrawn his amendment about "the Private Secretary to the Nawab". There is only a part of the property which is in the name of the Private Secretary. So he can speak on parts II and III of the Schedule.

Mr. Naziruddin Ahmad: I will simply oppose them. The properties in part II are eleven in number and they are Government securities standing in the name of the Nawab of Junagadh. In these circumstances the normal presumption of law is that the property is his, and so they should not be included in the list, as it is his personal property. On the question that he may have mismanaged the State perhaps my Honourable friend is right in suggesting it but there is ample remedy against him; if the State has been mismanaged the people have a remedy against him. It is not in a spirit of propaganda that I spoke; it was really due to a feeling of horror at the way in which Government are proceeding. The difficulty in the House is that there is no opposition; Government are assured of a huge and solid majority, and it is therefore all the more necessary that in the absence of opposition there should be at least one person who will speak frankly and openly. There should be no resentment and no need to ascribe motives. I am too insignificant a person to be an advertising medium. In fact I have never behaved in that fashion; but as a legislator and a lawyer of some experience I feel that I should be frank about it. That is why I attempted to describe the title of the Act in a bitter spirit and said that it is in the nature of a suppression of rights. It was a feeling of resentment at the way in which property has been included that was behind it.

Part II relates to certain shares in certain limited companies. They also stand in his personal name and I do not know why they should be included as part of the property of the State. I think there is no justification for their inclusion as such. I oppose these parts II and III of the Schedule.

Mr. Speaker: The question is:

"That Part I of the Schedule stand part of the Bill."

The motion was adopted.

Mr. Speaker: The question is:

"That Part II of the Schedule stand part of the Bill."

The motion was adopted.

Mr. Speaker: The question is:

"That Part III of the Schedule stand part of the Bill."

The motion was adopted.

The Schedule was added to the Bill.

Clause 1 was added to the Bill.

Mr. Naziruddin Ahmad: Sir, the Preamble is the basis of the misconception of the entire Bill, as it takes it for granted that the whole property belongs to the State of Junagadh. I have taken the view that that is not necessarily so. In these circumstances, I consider that the Preamble should be redrafted and should not be left as it is. I submit that the Preamble is a very important part of the Statute, being, as I have already said, the basis of the entire enactment. I, therefore, consider that it should be so amended as to bring about the distinction between the property of the State and the property of the Nawab.

Mr. Speaker: The question is:

"That the Preamble stand part of the Bill."

The motion was adopted.

The Preamble was added to the Bill.

Mr. Speaker: The question is:

"That the Title stand part of the Bill."

The motion was adopted.

The Title was added to the Bill.

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

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

Mr. Speaker: Motion moved:

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

Mr. Naziruddin Ahmad: Sir, I would like to say that my formal protest be registered.

Shri M. Ananthasayanam Ayyangar: Sir, I would like to express on behalf of the House, its entire approval of the Bill. My Honourable friend, Mr. Naziruddin Ahmad, in his enthusiasm for opposing the Bill has forgotten the Rules of Procedure of the House. I feel that he is doing little justice to the members of this House in what he has said. Nobody in this House ever said that the Nawab was a bad man and I thought that it was quite unnecessary on the part of my Honourable friend to have gone on repeating that the Nawab was a bad man. We have got the greatest respect for the Nawab as a man. But, here we are concerned with the subjects of Junagadh and not the Nawab. We are only interested in seeing how far we can protect the rights and interests of the people of Junagadh, till we have got the time to decide whether the property belongs to State or to the Nawab. I am surprised to find my Honourable friend saying that because the property stands in the name of the Nawab or the ruling prince of a particular State, *prima facie*, it belongs to him. Hitherto the entire Administration of India was run in the name of the Secretary of State and any suit against the administration could be brought only against the Secretary of State. Does my Honourable friend mean to say that the entire property of the Government of India belonged to Sir Samuel Hoare?

[At this stage Mr. Speaker vacated the Chair, which was then occupied by Shri K. Santhanam (one of the Panel of Chairmen.)]

After all, Sir, this is only a temporary arrangement, until a permanent solution is found. In these circumstances I do not think there is anything objectionable in it. It is a measure conceived in the interests of the people of the State and also in the interest of the Nawab. This is a matter in which a decision should rest with the subjects of the State. If they want to retain the monarchic form of Government, they are entirely at liberty to do so. Therefore, let my Honourable friends not have any impression that this is a sinister move; on the other hand, they should welcome it.

I, therefore, request the House to lend its wholehearted support to the entire Bill as it stands.

Mr. Chairman: The question is:

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

The motion was adopted.

CONTROL OF SHIPPING (AMENDMENT) BILL

The Honourable Dr. Syama Prasad Mookerjee (Minister for Industry and Supply). Sir, I beg to move:

"That the Bill to amend the Control of Shipping Act, 1947, be taken into consideration."

Sir, the House will recall that during the budget session of 1947, the Control of Shipping Act was passed into law. That Bill had two objects in view: the first was to provide for continuance of the powers to license Indian shipping, the second was to secure priority of control over coastal shipping, a power which was originally exercised under the Defence of India Rules and which lapsed on the 31st of March 1947. Certain powers were also taken to revive the fixation of freights and fares which was considered necessary.

The period, Sir, was originally fixed at three years from 1947 but the Select Committee reduced the period to one year and gave power to Government to continue the Act for another year. Meanwhile it was thought that a comprehensive legislative measure would be placed before the House based on the recommendations of the Shipping Policy Committee. That report is now before the Government and steps have been taken to formulate a comprehensive legislative measure which will meet the principal recommendations made by the Committee. Various interests involved are being consulted and it is expected that the matter will soon come before the House.

There was one alternative open to Government, namely, to extend the operation of the Act by another year by means of an executive order, but Government thought that it might be desirable to make one or two amendments, the chief amendment being that this Act which was hitherto applicable only to Indian shipping, will now be made applicable to all ships which trade on the coastal area. So far as the period is concerned, it has been proposed that the period will continue till 31st March 1949, and it may be extended by another year. It is hoped that meanwhile Government will be in a position to bring before the House a consolidated piece of legislation. We are also retaining the powers regarding control for this reason that the transport situation in the country has not improved; and it may be necessary for Government in the interests of quicker movement of essential commodities by sea that it should regulate priority control over coastal ships. There are certain verbal amendments which also I shall move and which are necessary on account of changes which have been made by the Adaptation Orders. They are of a verbal character and two amendments I shall move shortly as advised by the Law Ministry.

I think, Sir, this is a piece of legislation which, although it is of a limited character, deals with a very important point of principle, namely, hitherto we had control only over Indian shipping, but now that control is being extended to non-Indian shipping as well. I have no doubt that this Bill will receive the support of every section of the House including Mr. Naziruddin Ahmad.

Mr. Chairman: Motion moved:

"That the Bill to amend the Control of Shipping Act, 1947, be taken into consideration."

I hope Honourable Members will co-operate with me in finishing the agenda as quickly as possible by confining their remarks to the minimum necessary extent.

The question is:

"That the Bill to amend the Control of Shipping Act, 1947, be taken into consideration."

The motion was adopted.

The Honourable Dr. Syama Prasad Mookerjee: Sir, I move:

"That for clause 2 of the Bill, the following be substituted:

"2. *Substitution of "India" for "the Provinces" in Act XXVI of 1947.*—In the Control of Shipping Act, 1947 (hereinafter referred to as "the said Act"), except in section 1, for the words "the Provinces", wherever they occur, the word "India" shall be substituted."

This is a formal amendment and I have already given the reason for it.

Mr. Chairman: The question is:

"That for clause 2 of the Bill, the following be substituted:

"2. *Substitution of "India" for "the Provinces" in Act XXVI of 1947.*—In the Control of Shipping Act, 1947 (hereinafter referred to as "the said Act"), except in section 1, for the words "the Provinces", wherever they occur, the word "India" shall be substituted."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

The Honourable Dr. Syama Prasad Mookerjee: Sir, I move:

"That for clause 3 of the Bill, the following be substituted:

"3. *Amendment of Section 1, Act XXVI of 1947.*—In section 1 of the said Act,—

- (a) in sub-section (2), for the words "all the Provinces of India" the words "the whole of India" shall be substituted, and for the words "in the Provinces" the words "in India" shall be substituted; and
- (b) in sub-section (3), for the figures "1948" the figures "1949" shall be substituted."

This is moved for reasons similar to that of my amendment to Clause 2 above.

Mr. Chairman: Amendment moved:

"That for clause 3 of the Bill, the following be substituted:

"3. *Amendment of Section 1, Act XXVI of 1947.*—In section 1 of the said Act,—

- (a) in sub-section (2), for the words "all the Provinces of India" the words "the whole of India" shall be substituted, and for the words "in the Provinces" the words "in India" shall be substituted; and
- (b) in sub-section (3), for the figures "1948" the figures "1949" shall be substituted."

Shri T. T. Krishnamachari (Madras: General): If the amendment just moved is put, I could then move mine.

Mr. Chairman: But if it is carried then your amendment cannot be moved. It should now be moved as an amendment to the present amendment.

Shri T. T. Krishnamachari: Sir I move:

"That in clause 3 of the Bill, in sub-section (3) of section 1 of the Control of Shipping Act, 1947, for the proposed figures '1949' the figures '1950' be substituted."

The Honourable Minister, my friend, has said that the intention of the Government was to make the Bill applicable for three years. Subsequently it was cut down by the Select Committee for reasons which he has made clear. But the position is that within one year nothing material will happen

in the matter of control of coastal shipping, and issues of such nature will be taken up only when the new Constitution comes into being. Even if it were otherwise, it will be nothing wrong for the Legislature to take up a Bill comprehensive in its nature if it wishes to do so earlier. My amendment, however, seeks the avoidance of a recurring amending Bill of this nature next year. In view of the fact that the Bill is itself conducive to so much good for shipping generally, I think the House will have no objection to giving powers to keep the Bill alive for one more year, in view of the fact that that was the original intention of Government.

The Honourable Dr. Syama Prasad Mookerjee: I do not mind. I am prepared to accept it.

Mr. Chairman: From the technical point of view, I think the best course will be for the Honourable Minister to amend his amendment in respect of 1949 and put it as 1950. The Honourable Member's amendment then need not be put.

Shri T. T. Krishnamachari: If that is so, I will not press my amendment.

Mr. R. K. Sidhva (C. P. and Berar: General): I would like to say that no case has been made out by Mr. T. T. Krishnamachari to give power to the Government beyond one year. It has been stated that the new Constitution will be coming into force and it is desirable to give two years. But the Government themselves do not think it desirable to continue these powers for two years. Government also have not given any reasons for accepting it. Of course we will be only too glad to give powers such as this. It is our own Government. Therefore whatever we propose and pass in this House they will accept. But the point is that the Minister says "if the House is prepared I am prepared." The Honourable Minister said that if the House wants it he would be glad to accept it. There is no valid reason given. The Honourable Minister rightly said that there are many Acts that require amendment and that they would be brought in due course. So far so good. As far as I know these clauses are for control purposes. While in one breath we say that we should not give the Government fullest latitude and the controls should be withdrawn as early as possible, on the other side we are allowing these controls; although these particular controls may be of a different type yet it is transport control and we have been even in this regard agitating for decontrol. Here we say that the control should be extended. I therefore say with due respect that it was not proper for the Honourable Member to have moved the amendment and the Honourable Minister to have accepted it. I do hope that on second consideration he would feel that it was not proper to give the Government this power.

Shri T. T. Krishnamachari: On a point of explanation, I would like to draw the attention of the Honourable Member to the fact that this amending Bill covers coastal trade as well, for which we have been agitating all along. As things are Government will come up with a similar amending Bill next year this time and we are trying to avoid it.

Mr. Chairman: The question is:

"That for clause 3 of the Bill, the following be substituted:

3. *Amendment of Section 1, Act XXVI of 1947.*—In section 1 of the said Act,—

(a) in sub-section (2), for the words "all the Provinces of India" the words "the whole of India" shall be substituted, and for the words "in the Provinces" the words "in India" shall be substituted; and

(b) in sub-section (3), for the figures "1948" the figures "1950" shall 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.

Clause 4, was added to the Bill.

Shri T. T. Krishnamachari: Sir, I move:

"That in clause 5 of the Bill, in sub-section (2) of the proposed new section 3A to the Control of Shipping Act, 1947, the following be added at the end, namely:

'and shall be subject to such conditions as may be specified by the shipping authority granting the licence'."

Section 3A is an enumeration of various restrictions and the conditions under which licence is granted. Sub-clause 2 reads as follows:

"a licence granted under this section may be either a general licence or a specified voyage licence or a licence for a specific period."

There might conceivably be other conditions also in regard to the grant of such licences. In order to fill this particular lacuna I have moved that the addition of these words be made to sub-clause 2. I hope my honourable friend Mr. Sidhva will not raise any objection to it: it merely clarifies the position.

The Honourable Dr. Syama Prasad Mookerjee: I am prepared to accept the amendment: it is better clarification.

Mr. Chairman: The question is:

"That in clause 5 of the Bill, in sub-section (2) of the proposed new section 3A to the Control of Shipping Act, 1947, the following be added at the end, namely:

'and shall be subject to such conditions as may be specified by the shipping authority granting the licence'."

The motion was adopted.

Mr. Chairman: The question is:

"That clause 5, as amended, stand part of the Bill."

The motion was adopted.

Clause 5, as amended, was added to the Bill.

Clauses 6, and 7 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. Syama Prasad Mookerjee: Sir, I move:

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

Mr. Chairman: Motion moved:

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

Mr. Naziruddin Ahmad: Sir, as a kind reference has been made to me.....

The Honourable Dr. Syama Prasad Mookerjee: Sir, I withdraw my remarks.

Mr. Naziruddin Ahmad: Sir, I only have to suggest that Bills should be very carefully drafted. It is a wonder that the word "Provinces" has to be changed to the word "India". In fact my copy of the General Clauses Act is a corrected copy according to the Adaptation Order but it is a pity that the copy of the Government Draftsman was not brought up to date. Under the circumstances the need for amendments of a simple Bill like this by the Minister himself is regrettable. I hope more care would be taken in drafting Bills in future.

Mr. B. K. Sidhva: Sir, I feel that the Indian Coastal Shipping Act requires to be amended at a very early date. This affects our coastal trade immensely and the amendment of this Act is considerably overdue. I would

have desired the Government to have brought an amending Bill in this Session but the Honourable Minister was good enough to state that he realised the importance of the Act being amended and that he was going to do so in the next session and for that reason he stated that he would require one year's extension. The Bill has extended the period to two years. Notwithstanding the House having accepted the period of two years, I do hope that the Minister would not be actuated by the fact that power has been given by the House for two years and therefore he should necessarily delay the amending of the Coastal Shipping Act. I do not think that that was the intention of the House that the Coastal Shipping Act should be delayed for two years when it gave 2 years of control. If our coastal shipping is to expand and prosper this Act should have been amended long ago. Under the British Administration for reasons best known to them they had delayed it. I do feel that no time should be lost now in bringing forward this measure and I hope the Government will stick to their promise to bring forward this Bill not next year but in the next session, so that by March next we might have an Indian Coastal Shipping Act amended to suit the nationals of this country.

Mr. Chairman: The question is:

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

The motion was adopted.

DELHI AJMER-MERWARA RENT CONTROL (AMENDMENT) BILL

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

"That the Bill further to amend the Delhi and Ajmer-Merwara Rent Control Act, 1947, be taken into consideration."

The House will remember that on the 24th March, 1947 we passed an Act called the Delhi Ajmer-Merwara Rent Control Act. One of the important provisions contained in that Act was that the premises which were under construction at the time of the passing of the Act were exempted from rent control both in Delhi as well as Ajmer-Merwara. Subsequently the Central Legislature passed another Act on the 31st December, 1947, whereby the premises under construction in Delhi were excluded from the operation of the Act. And the operation of the Act was confined only to Ajmer and Merwara. The object of the subsequent legislation was that right from the 4 P. M. 24th March 1947, the new Act should have retrospective effect. But unfortunately Section 7A of the new Act, as drafted, failed to carry out the intention of the Legislature. Section 7A, either by slip or something, used the words "from the commencement of this Section" when as a matter of fact the words ought to have been "from the commencement of this Act". The present Bill seeks to remove that lacuna by using the words "from the passing of this Act", so that the Act passed on the 31st December, 1947 may get retrospective effect, so far as Delhi is concerned, from the 24th March, 1947.

The Bill contains principally two clauses. One is the principal clause which substitutes the words "from the passing of this Act" for the words "from the passing of this Section". The subsequent clause is merely a clause which deals with what are called consequential amendments.

I hope the House will accept this measure.

Mr. Chairman: Motion moved:

"That the Bill further to amend the Delhi and Ajmer-Merwara Rent Control Act, 1947, be taken into consideration."

Shri Deshbandhu Gupta (Delhi): Sir, I rise to support the motion moved by my honourable friend the Law Minister. But my reason for doing so is not that I agree with the provisions of the Bill. The reason really is, that as my honourable friend has himself admitted a mistake in drafting has been discovered and this Bill merely seeks to remedy that mistake. The other day when my honourable friend Dr. Pattabhi Sitaramayya remarked that perhaps lawyers do not possess much commonsense my honourable friend took exception to that remark (interruption). But today there is evidence that even legal acumen is sometimes wanting. It is the draftsmanship that was at fault and which is responsible for this Bill's coming before the House for the third time during the short term of one year. I hope the Honourable Minister and his Department will take good care in future to see that the draftsmanship is not so bad and that the time of the House is not taken on correcting the mistakes of the draftsman.

Mr. Chairman: I think the Honourable Member also was a member of the Select Committee.

Shri Deshbandhu Gupta: I am quite conscious of that fact, Sir. But my excuse is that I am after all a layman and then the original mistake was committed by the Law Department when it was issued in the form of an ordinance before it came to the Select Committee or this House. Anyway, Sir, as my honourable friend has himself admitted the mistake, I do not wish to pursue the matter further. I just wanted to emphasize that there have been a little too much bad draftsmanship and it is time that we took good care of it. There is one point which I would like to stress on this occasion; that is that while this Bill has come for the third time before this House, the necessity of putting forth a positive programme of building houses, has not yet been realised by Government and there has been no evidence forthcoming on the part of the Government to show that it has prepared a building programme for Delhi or for the country. It was emphasized by me before and I repeat that there can be no two opinions in the matter, that the real solution of the problem is not rent control: the real solution is more houses. But unfortunately, as I have pointed out time and again, the Government has done absolutely nothing in that direction. It is a pity that the Health Minister who is supposed to be in charge of the building programmes is not even present today, and nor was she present when this question was taken up by the House at an earlier stage. Let me make it clear that there are unscrupulous landlords and I have no sympathy with them. As a matter of fact it is no secret that it is I and my friend Pand't Thakurdas Bhargava who are responsible for this measure. We brought this matter to the notice of the Ministry and asked them to bring an amending Bill. I am therefore no friend of the unscrupulous landlord. As a matter of fact if the strings of law are being tightened today against the landlords they have to thank the unscrupulous landlords for it. But at the same time it must be realised that Government must now make a positive effort and take active steps to carry out a bold house building programme. I regret to say that so far as that aspect of the question is concerned, nothing is being done. On the other hand the attitude of the Government has been obstructive. I would like to point out to my friend an instance of it and I would like him to draw the attention of the Ministries of Health and Works, Mines and Power. In New Delhi, as you are aware, Sir, there are three agencies which control house-building operations: one is the New Delhi Municipality; the second is the Land and Development Department; and the third is the Delhi Improvement Trust. You will be surprised to learn that the Land and Development Department up to this day has been following a policy of not allowing even guest houses being built in the existing premises of bungalows in New Delhi and it describes this as the government policy. This policy lays down that even in bungalows, as big as having an area of 7, 5, or 3

acres each it is not possible according to the present policy to put up additional houses. Here is a case in point: One of my friends, Lala Narain Dutt, contractor, who was the President of the Landlords' Association, New Delhi, and who is a very respectable man, applied to the Government in December 1944 asking for permission to build a guest house in the premises of his bungalow, but to this day has not got it.

Shri C. Subramaniam (Madras: General): On a point of order, Sir. We are discussing the Amending Bill. May I know whether discussion can go as far as to raise the questions regarding the necessity or otherwise for rent control etc.? This matter was raised once before by the Finance Minister and the Speaker gave a ruling. That is applicable to this case also. I think the discussion should be restricted to the actual amendment and not as to whether the control is good or bad.

Mr. Chairman: It is not really a point of order because the scope of discussion on a Bill is rather elastic. I would still request the Honourable Member to make his speech as short as possible.

Shri Deshbandhu Gupta: I am surprised that my friend who can also be said to belong to Delhi inasmuch as he spends a considerable part of the year in Delhi seeks to stifle the discussion on this important question by raising such point of order. Strictly speaking, it is open to me to speak on this aspect of the question as the Bill seeks to impose new restrictions on landlords which may have an adverse effect on house-building activities of the town. I only want to point out the need for a bold building programme and the need for it is that although it has been emphasised time and again the Government has not responded so far.

Shri C. Subramaniam: I did not seek to stifle the discussion but wanted only to raise a point of order, to point out the scope of discussion at this stage.

Shri Deshbandhu Gupta: Sir, I was pointing out an instance, that one of the landlords, a respected landlord of New Delhi applied to the Land and Development Department for permission to put up an additional structure in the courtyard of his bungalow. According to the Municipal Byelaws the area which can be covered is 33 per cent of the total area. The area covered in this case was only one-fifth. He asked for permission to cover some additional area in accordance with the municipal byelaws. But since December 1944 up to this day the Land and Development Department has not given permission to this gentleman to build a guest house in the premises of his bungalow, and the reason given is "that it is against the policy of the Government to give such sanction". Let me refer to one of the letters which he had received from the Land and Development Department. In this letter it was stated that it was against the policy of the Government to accord such permission. Long correspondence has gone on on this subject and it has been asserted by the Land and Development Department that it is the policy of the Government of India not to permit the building of guest houses in New Delhi, although they may fall within the four corners of the Byelaws of the New Delhi Municipality. I hope the Government will change its attitude in respect of guest houses and will soon remove all these small restrictions which they used to put when perhaps they wanted to reserve New Delhi for the white-skinned people or for a small aristocracy. It is a pity that the same old policy is being followed today. Unless Government liberalise its attitude and permit the building of second stories and guest houses and also make building material available at controlled prices, to private owners they are not going to solve the housing problem. While supporting the Bill which has been put forward by my friend, I hope Government will take note of the changed circumstances and we will have something positive to hear from the Government—not only to hear but to see it put in action.

Mr. R. K. Sidhva (C. P. and Berar: General): Mr. Chairman, Sir, this Bill seeks to rectify a little mistake which through an oversight, crept in the last session and I am very glad that the Government have been swift enough in this session to make the necessary amendment, and I congratulate them. I congratulated them last time when this Bill was brought. This oversight sometimes happens and I am glad that it did not lose sight of the fact and immediately came before the House to rectify the mistake. This Bill really relates to the control of rents and the control of rent comes in because there is a shortage of houses. Therefore my honourable friend Mr. Deshbandhu Gupta, was perfectly right in mentioning the question of the shortage of houses. There was no point of order. I am very glad that you, Sir, also stated that this question has a bearing, and you will remember, Sir, that I drew the attention of the Honourable Minister to this question of shortage of houses. As far as this Bill is concerned, the unscrupulous landlords are really spoiling their own cause by taking the fullest advantage of such mistakes sometimes, and in 1947 when this Act was passed in this House the new buildings were not included and they took the fullest advantage and raised rents to such an extent that the poor tenants were put to considerable hardship. I can speak with experience of many other provinces where the tenants have been put to as much privations and hardships, but the less said about this matter the better. These landlords have still been complaining that this Control Act in all provinces has put them to tremendous monetary loss. I fail to understand it. Landlords have made immense profits in the sale of their lands due to fictitious prices—the prices went up to tremendous heights in this land business. In the last war also there was control of rent for a number of years. This year the question has become so acute that I do not know when control will go away and I must warn the government that they should not be carried away by any kind of propaganda on behalf of the landowners, and particularly the unscrupulous landowners, to remove this control. If this control was not there, I am sure the condition of the tenants would have become most deplorable and I cannot sufficiently explain to what extent they have suffered. As far as houses are concerned, I entirely endorse the views expressed by my friend Mr. Deshbandhu Gupta. My friend stated that the Government should make it convenient . . .

Mr. Chairman: There is no need for the Honourable Member to repeat what the previous speaker said. This is a simple Bill and I suggest that the Honourable Member should not take up the time of the house if he can possibly avoid it.

Mr. R. K. Sidhva: Thank you, Sir. What I was stating was that the question of building material does not arise at all. If landlords are anxious to build houses, they can get bricks. They can have one-floor buildings if they desire to save the condition of the tenants, and if they want return for the capital that they have invested, but they have no such intention. They want only to have palatial buildings and not give any relief under the existing extraordinary circumstances. I therefore feel very strongly that the landlords themselves are responsible in not building houses as they are required to do. As far as these materials are concerned, they know that steel is not available. They should take immediate advantage of whatever material is available for building these houses and thus removing the difficulty that has arisen, and help the tenants and also help the government, so that the Control Act may be removed as early as possible, with these words Sir, I support the motion.

Mr. Chairman: The question is:

"That the Bill further to amend the Delhi and Ajmer-Merwara Rent Control Act, 1947, be taken into consideration."

The motion was adopted.

Mr. Chairman: We will now take the Bill clause by clause.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3 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. Chairman: The question is:

"That the Bill be passed."

The motion was adopted:

INCOME-TAX AND BUSINESS PROFITS TAX (AMENDMENT) BILL

The Honourable Shri R. K. Shanmukham Chetty (Minister for Finance):
Sir, I move:

"That the Bill further to amend the Indian Income-tax Act, 1922, and the Business Profits Tax Act, 1947, be taken into consideration."

Even though I have put down the motion for the consideration of this measure, on further thought I have decided to accept the motion of the amendment for referring this Bill to a Select Committee. This Amending (Bill contains a good deal of miscellaneous matter covering the Income-tax Act, the Capital Gains Act and the Business Profits Tax Act. Most of these amendments have been necessitated with a view to protect the revenues of the state. Some of them are the result of constitutional changes, some are the result of the difficulties anticipated in a further examination of some of these measures, and some again are the result of the difficulties created by certain judicial decisions. I do not know, Sir, if it is the desire of this House to discuss the implications of all these various amending clauses. Owing to the rather technical nature of these amendments, I would suggest, with a view to save the time of the House, that this measure might be examined in detail in the Select Committee, and the House at this stage may give its assent for the reference to the Select Committee. Sir, I move.

Mr. Chairman: Motion moved:

"That the Bill further to amend the Indian Income-tax Act, 1922, and the Business Profits Tax Act, 1947, be taken into consideration."

Shri M. Ananthasayanam Ayyangar (Madras: General): Mr. Chairman,
Sir, I move:

"That the Bill be referred to a Select Committee consisting of the Honourable Shri R. K. Shanmukham Chetty, Shri T. T. Krishnamachari, Shri Mohan Lal Saksena, Shri H. V. Kamath, Prof. N. G. Ranga, Shri Bikramlal Sondhi, Pandit Thakur Das Bhargava, Shri C. Subramaniam, Pandit Lakshmi Kanta Maitra, Dr. B. Pattabhi Sitaramayya, Shri Arun Chandra Guha, Dr. B. V. Keskar, Mr. Tajamul Hussain, and the Mover, with instructions to report not later than the last day of the first week of the next session of the Assembly, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Sir, I do not want to detain the House for long. I am extremely obliged to the Honourable the Finance Minister for having consented to send this Bill to the Select Committee. As he says, though there may be agreement on many matters, some of these matters have been introduced in this Bill on

[Shri M. Ananthasayanam Ayyangar]

the recommendation of the Commission one of the objects for whose establishment was to send a report regarding the improvement of the Income-tax Act and this has been modelled on that recommendation.

There are two important matters in this Bill. It says that "any sums paid by the owner on account of municipal taxes in respect of the property" should be exempted from income-tax. Is there any justification for this? We have already made a provision in the Finance Act that for a couple of years taxes paid on gresh buildings—not even taxes, even income spent on new buildings—should be exempted from taxation. Therefore there is the question whether the proposed concession has to be shown and whether it would not have a chilling effect on the industry. There is dearth of funds for industry and even for Government purposes. I ask whether it is desirable at this time to divert for building houses funds which are otherwise required for reconstruction. Is an inducement necessary for building of houses? The subject matter was one of the clauses in the Finance Bill also; it was referred to the Select Committee and that Committee was of opinion that this matter was controversial. The Finance Committee also was not in favour of it, but allowed the Finance Minister, if he so chose, to bring it forward in another Bill. So he has brought it forward. It is a matter on which there cannot be any unanimity of opinion; I believe the Honourable Minister will consider the pros and cons in the Select Committee and would be as reasonable as in other matters. This is an improvement to the existing Act: "the holder of an impartible estate shall be deemed to be the individual owner of all the properties comprised in the estate." That is a welcome move.

Then as regards the power of Commissioners to revise orders of Income-tax Officers. Hitherto there may have been cases where Income-tax Officers, on an erroneous view of law, might have exempted certain people from income-tax, or the order might have been favourable to the assessee. Then the Government had absolutely no more power to revise that order. It is only in a case where an assessee has some grievance that he can appeal under the existing law. It ought not to be one-sided. After all, the Income-tax Officer may not be right and so there should be a judicial court or a tribunal which may show clearly that the opinion of the Income-tax Officer in exempting certain taxes and arriving at an assessment is incorrect. In such cases under the existing law the Government is helpless. I agree with the Honourable Minister that a provision ought to be made enabling the Commissioners to revise orders of assessment passed by subordinate Income-tax Officers, wherever necessary. I am also glad that this power has been hedged in by the provision that it should be exercised within two years.

The most contentious portion is as to whether an income-tax assessment should be re-opened merely because the Income-tax Officer has reported. This has been reported by the Commission. I am glad it has been referred to the Select Committee where this matter will be thrashed out.

One point, which I believe is rather a ticklish affair, is in the matter of realisation of income-tax. The existing law says that income-tax shall be recovered as arrear of land revenue. In so doing normally all movable properties are attached and land and other property also can be attached. But if certain debts are due to the assessee, this Bill seeks to clothe the Income-tax authorities with power to recover from or call upon the debtors to pay those amounts. This, in certain cases, may be good; in certain other cases it might act contrary to what is expected. My point is whether it will not work hardship in a case where the money is used for business and other purposes. Though in practice I agree with this provision, as a matter of practice this has to be worked with caution. Administrative orders may also be given. As regards the Business Profits Tax, they are all matters which may be considered in the Select Committee.

I believe there is nothing objectionable in the Bill. If the Honourable Minister had moved for consideration of the Bill straightaway, there might have been difficulties but now that he has accepted the motion for reference to Select Committee I believe it will come before us in the Select Committee and all the objectionable portions may be removed.

Sir, I request the House to accept the motion for reference to the Select Committee.

Mr. Chairman: Amendment moved:

"That the Bill be referred to a Select Committee consisting of the Honourable Shri R. K. Shanmukham Chetty, Shri T. T. Krishnamachari, Shri Mohan Lal Saksena, Shri H. V. Kamath, Prof. N. G. Ranga, Shri Bikramlal Sondhi, Pandit Thakur Das Bhargava, Shri C. Suoramaniam, Pandit Lakshmi Kanta Maitra, Dr. B. Pattabhi Sitaramayya, Shri Arun Chandra Guha, Dr. B. V. Keskar, Mr. Tajamul Hussain, and the Mover, with instructions to report not later than the last day of the first week of the next session of the Assembly, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

Shri T. T. Krishnamachari (Madras: General): Mr. Chairman, I am very happy that my Honourable friend Mr. Ananthasayanam Ayyangar has supported the motion before the House particularly as I know that in the past in 1945 the House objected to a Bill which contained a mild amendment of section 34 in which the then Government wanted that the words in this section reading "in consequence of definite information which has come into its possession" should be omitted.

Sir, the framework of the amending Bill before us as it is, at any rate the most important part of it, is in regard to the provisions, contained in section 34 of the Act as it stands at present. The new section in the Bill 33(b) is more or less ancillary to it. Section 34 as amended is more or less an elaboration of the present section making it less difficult for the Income-tax Officer to reopen matters that have been decided on without his having to state that he had definite information which necessitate reopening the assessment.

Sir, the House will understand that the reason for this amending Bill has been a recommendation made by the Investigation Commission that is now sitting. Actually, we have a few days back passed an Act entrusting the Commission with greater powers and apparently this amendment forms part of a scheme of the working of the Income-tax Investigation Commission. I do not know whether the purpose that we had then in view would be adequately served by our not taking up this question immediately but referring it to a Select Committee and legislating five or six months hence, as the case may be. In fact, if the House feels so keenly that people who have escaped assessment should be brought to book both by reason of the work of the Commission that is now sitting and also by the extreme vigilance exercised by the Income-Tax authorities, then it must straightaway clothe the Department with the powers that it wants under Sections 33A and 34. In fact 33A would perhaps cover quite a number of cases which are only 2 years old where the discretion of the Commissioner can be exercised and matters re-examined where he considers that the revenue has been affected. That is the primary point in the amending Bill. The assessee's interests are not at all taken into account in this case. It is mainly intended to serve in cases where the revenue is affected. Perhaps this new section would help the Government a lot more than the amendment of Section 34 that is sought in the amending Bill. From that point of view, if the interests of the House are more or less co-extensive with the interests of the Department in this matter, I felt that a Bill of this nature should be passed giving the necessary powers and if by reason of the passing of any hasty legislation some defect is discovered later on perhaps an amending Bill could be brought forward then. As it is at present, what will happen is this. I have received chunks of literature already from vested interests protesting against this Bill. 33A

[Shri T. T. Krishnamachari].

is a thing which vested interests won't accept very freely for the identical reason that some of us refused to give the powers to the Government in 1945 because we did not like to enlarge the scope of section 34. So also 33A won't be acceptable to vested interests, nor will the revised 34 which invests the authority with specific powers and remove the safeguards that the assessee had in the past. So what would happen within five or six months is vested interests will be up in arms and the agitation will gather considerable momentum. I would not be surprised if the fate of the amending Bill in regard to Section 34 which was introduced in 1945 will not overtake the fate of this particular amending Bill. In a matter like this, time is the essential factor and the House is now in a mood to recognise it. In fact, their hopes of raising revenue have been encouraged by the work of this Investigation Commission. An honourable member said the other day "We will get Rs. 400 crores." I wonder if we shall get Rs. 40 crores or even Rs. 20 crores for that matter, but what is most important even in regard to the work of the Commission is the fact that the Commission would be able to recommend ways and means of tightening up income-tax regulations in such a manner that the people who evade will be progressively less in number. That is the crux of the whole problem, and if the House agreed to give additional powers—draconian as they were—to the Income-tax Investigation, my own feeling is the House should not have hesitated to give the powers sought to be conferred on the Department by this Bill. It would be a blank cheque undoubtedly but the House has already accepted the principle in passing the Tax Investigation Amending Bill and in this particular matter, I think the House would have done well to have done the same thing.

I now refer to the particular objections of my friend, Mr. Ananthasayanam Ayyangar, namely, the reintroduction of the question of taking into account municipal taxes and similar taxes paid by assesseees in regard to the computation of their income. I have reasons to believe that the Government themselves are protesting against a decision of a High Court I believe the Allahabad High Court in regard to an adverse decision on this matter have filed an appeal before the Privy Council I do not know what will happen to that appeal. If that appeal goes against the Government, the purpose of the amendment might then have been served, but if it is otherwise, well, the matter may be reconsidered. Perhaps put for the inclusion of this provision the House might have been in a mood to pass the Bill. Nevertheless I feel that the Bill should have been taken into consideration and passed in order to serve the interests of the State and in order to increase the efficiency of the Department in regard to recovering money from people who have escaped assessment. Therefore, it is not a matter to congratulate ourselves that while on the one hand, we have conceded enormous amount of powers to an Investigation Commission we have not accepted their recommendations in regard to a particular matter which is more or less inter-linked with the work of that Commission.

Shri M. Ananthasayanam Ayyangar: This is an amendment for a permanent provision.

Shri T. T. Krishnamachari: Yes, this is for the purpose of creating a permanent provision in the Act in this regard. It is for the purpose of recommending the incorporation of permanent provisions in the Act that we have passed the Income-Tax Investigation Amending Bill; it is for the purpose of creating a permanent provision that will enable the Department not to allow people to escape assessment that we have allowed ourselves to discard elementary principles of law, jurisprudence and everything else and clothed the Commission with enormous powers in order to help the Department to get as much revenue as possible and to bring to book all defaulters. But

What is the use of it all? We thought in one way a few days back. We have changed our mind today. That I think the House had better realised. That is the particular purpose for which I have taken this opportunity.

So far as the other provisions are concerned, Section 46 and the rest, there are practically matters which are not of vital importance to the vested interests. But the arms of the Government are pretty long. Even if you do not provide them with these provisions, they will be able to collect arrears, if it is possible to collect them. Of course, as the House will know, Government often times find discretion the better part of valour and compound with the arrears for a lump sum payment. The question is therefore really about 33A and 34 as amended and in regard to that I thought the powers to the Government under those Sections should have been conceded if we are still in the same frame of mind in which we were when passing the amending Bill of the Income-Tax Investigation Commission.

Sir, this is the only matter to which I wanted to draw the attention of the House and if the House feels that the matter can be put off for about six months . . .

Mr. Chairman: It is open to the Honourable Member to defeat the amendment.

Shri T. T. Krishnamachari: I remember, Sir, that that course is open to me, but I am merely suggesting that the House itself . . .

Mr. Chairman: I think individual members should not cast reflections on the House as a whole as to what it should do and what it should not do. It is better to confine oneself to one's views and to what one would like or would advocate and not cast a general reflection on the House as a whole.

Shri T. T. Krishnamachari: I apologise if what I said constitutes a reflection on the House at all. Actually, what I really sought to mention was the House is committed to a principle and the alteration of that principle would probably indicate a changing of the mind of the House. The House has not yet taken a decision on this Bill. I was only making a mention of this fact and was going to say that when the House takes a decision I would like to remind it of what it did in regard to the other Bill a connected Bill a few days back. I do not therefore think I have cast any reflections on the House.

Shri Khurshed Lal (U.P.: General): Sir, I only want to draw the attention of the Select Committee to the exemption which is sought to be given to any sums paid by the owners on account of municipal taxes in respect of property. Knowing what little I do of the system of municipal taxes in U.P., I think this clause as it is framed is going to hit the public exchequer unnecessarily. In U.P. we have a water tax. It is levied on the annual letting value of the house. Now, Sir, take the case of my own town. We have a water tax of 5 per cent. We have got also a water charge of Rs. 1 per 1000 gallons and what happens is this. If I have a house whose rent is Rs. 100 per mensem I pay Rs. 5 per month as water tax and on the consumption of water I get a rebate of 5000 gallons in lieu of the tax paid by me, so that if I consume less than 5000 gallons that is covered by my tax and if I consume over and above 5000 gallons, I pay for that. Now, Sir, if exemption is to be given for a tax like that—and under this clause that exemption would be given—then it actually comes to this, that you are exempting the owner for a tax which he has paid and the return for which he has received from the Municipal Board in the shape of water. I submit, Sir, that the Select Committee ought to take this into consideration and taxes for which a return is given specially by the Municipal Board should not be exempted. Municipal taxes are generally for services rendered and there should be no exemption. I am opposed to this clause altogether. But even if some exemption is to

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be given, I would suggest that at least taxes like the one of which I have given an example just now should not be exempted, and this clause should be amended accordingly. I am aware, Sir, of the ruling of the High Court referred to by Mr. Krishnamachari and I would suggest that in view of that ruling and in order to cover such cases amendment should be made to safeguard the public exchequer and there should be no exemption from payment of taxes.

Mr. R. K. Sidhva (C. P. and Berar: General): I am really not happy for this Bill to have to be sent to the Select Committee. I am not so much happy because it has been moved that the report of Select Committee should be made in the first week of next session. I would have certainly not objected to it if the report had to be made before the ninth of this month and I see no reason why a simple matter like this could not have been sent to the Select Committee which could report before the 9th. What I am objecting is to the delay in this matter Sir. I do not desire that in the matter of taxes the House should really be so charitable in extending the period where the legitimate amount has to be recovered for the State. This amendment if carried would mean that the Bill will come in the month of September or October or November—we do not know when the next session is going to meet and the rules and everything will not be passed until the next year and the taxes which are legitimately due to the State would be denied to it. I think the Honourable Members should realize their responsibility in this matter.

Mr. Chairman: I may point out that it is not proper for a member to lecture to the House. He can express any views he likes and it is open to the Honourable Member to oppose this motion and defeat it and carry the entire Bill as it is. If he does not want to do this, to argue on the assumption that the amendment is going to be passed, I do not think that is a proper procedure. So the Honourable Member should confine himself to the Bill and he can make any remarks he likes regarding it.

Mr. R. K. Sidhva: With due respect I will confine myself to the provisions of this Bill and what I mention is my personal view.

Mr. Chairman. The Honourable Member should not question the ruling of the Chair. He will please confine his remarks to the points indicated by me.

Mr. R. K. Sidhva: No one can challenge the ruling. I myself understand that. The point is I personally do feel and I would have liked that my friend Mr. Ayyangar had moved a motion if he so thought fit that it be referred to the Select Committee and passed during this session. He himself stated in his speech that there is no material change to be made in this Bill. He has said that most of the provisions of the Bill are acceptable and there are one or two points which require consideration and for that purpose the whole of the Bill should be held over to be considered for nearly six months, that is, the full year and this is not fair.

I have heard the arguments regarding the exemption of municipal taxes. Some of my views are different on this matter; however, I do not want to go into this case. The matter is being sent to the Select Committee and they will consider it there. But when the Select Committee considers this matter, they must bear one thing in mind. What is the greater good of the greater number? Individual cases are not going to help anybody nor the individual cases will help the State or the people as a whole. We have to consider how the State is going to be benefited, that is the point. A, B, C, or D or even a few number could to a certain extent be affected by the provisions of the Bill, but ultimately to whom does the greater benefit go, that is the

ment to be borne in mind in a matter of taxation and from that point of view, Sir, I do feel that this measure being sent to the Select Committee brings to the State a certain amount of loss of revenue and I for one am not prepared to that extent willingly to accept the amendment. Mr. Ayyangar said even now it is not too late for him if the amendment has been moved—that the report could be made before the 8th of this month. Even the Finance Bill which contained many taxes was completed within three hours by us in this session. There were so many taxes that were levied there and within three hours the Select Committee completed that and brought it before the House and passed it before the 31st March.

An Honourable Member: What is the point in hustling the House to pass a piece of legislation?

Mr. R. K. Sidhva: The loss of revenue to the State. Even if you ask for exemptions, according to me there will be exemptions and according to the other it will not be. That is the whole point. You must remember it is either giving concession to society or allowing the State to incur a loss. From that point of view, Sir, I do feel that the provisions of the Bill should have been considered here even without going to the Select Committee and the Bill would have had a fair deal in this House. After hearing the views of Honourable Members, I do not desire that this Bill should have been sent to the Select Committee and to have been reported in the next session.

Pandit Thakur Das Bhargava (East Punjab: General): Sir, I am really surprised to hear the speech of my Honourable friend Mr. Sidhva and the speech of the Honourable Member who spoke before him. I understand the anxiety of these members about the revenue of the State. Nobody in this House wants that the State should not get its dues, but does any Honourable Member want that the individual should pay more than what he ought to or what is due from him? Does any Honourable Member want that the provisions of the ordinary law of the land should be amended without the Bill being sent to the Select Committee or in such a manner that all the provisions are not fully considered? I do not want to cast any aspersions upon any person, but, Sir, I most humbly point out that if a person were to read the notes circulated to us and the opinions that we have received from various other sources on this Bill, he would come to the conclusion to say the least, it is one of the most controversial measures that ever came to this House. Reference has been made in this note to the various High Courts, to the decisions of the various High Courts and to the law obtaining in England, in Australia and many other places and great efforts have been made by the investigation commission to support their point of view, and if any person were to go through that note alone intelligently, I take it, Sir, that he will have to spend something like two days on it and therefore I am simply puzzled when I find Honourable Members standing up and saying to this House that the Bill should have been considered all at once. Sir, I sent in a motion even to have this Bill circulated for public opinion and I sent in a motion for Select Committee. I knew that the Honourable the Finance Minister will at once accept the motion for Select Committee when it was brought to his notice that the members of the House wanted a motion to that effect to be accepted.

Now, Sir, before proceeding further, I would rather like to examine the position as to whether the State shall lose any revenue if the motion about the Select Committee is accepted. We know that according to the Act just passed by this House in regard to the powers of the Investigation Commission all such cases of tax evasion as come to the notice of Government before 1st June 1948 can be referred to that Commission and so the Commission will be seized of all cases which are sent by Government for their investigation. Now

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according to the provisions of this Bill it appears that fresh powers are sought to be taken in the proposed sections 33-B, and in sections 34, 46, etc. In regard to proposed section 33-B it is clear that according to the previous enactment of this House these powers were not given to the Commissioner under 33A to make any order prejudicial to the interests of the assessee. Now the power is sought that the Commissioner shall be able in a proper case to revise an order of the Income-tax Collector and pass any order after hearing the assessee to the prejudice of the assessee; and the period given is two years. Now suppose the Act is passed in November; then in regard to taxes for the two last years the power of retaxing will be there. Up till June 1948 power is there. And then if you will see section 34 the power is that in respect of the last 8 years any order which was passed in favour of an assessee can in a manner be revised by the Income-tax Officer. In the case of dishonest assessee and in the case of honest assessee also in regard to any order passed during four years of the passing of this Act powers have been given under section 34 also. So a mere some months' delay would not matter at all and there will be no loss of revenue.

Now Mr. Sidhva pointed out that Mr. Ayyangar said that all the provisions are acceptable and there is not much in the Bill which requires further discussion. I never heard him say so and I will be very much surprised if this remark could be attributed to Mr. Ayyangar. In regard to municipal tax you have heard the speeches of three or four members who have spoken before, and all of them have doubted the wisdom of exempting municipal tax. At this stage I need not enter into the vexed question of whether provincial taxes or municipal taxes should be exempted; but it is a matter on which opinions differ, and this is sufficient for taking this Bill to the Select Committee and having the point thrashed out there. In regard to section 34 and in regard to other provisions of the Bill opinions are very conflicting. Even in this note which has been circulated to us we find that the Commission also has not been very clear in regard to the recommendations made in them. For instance, in regard to the powers of the Commissioner, it appears that some time the Investigation Commission was itself of the opinion that one year would do and two years were not necessary. On the point of section 34 it appears from the note on page 8 that the Commission was not clearly of one opinion. If anybody speaks in this House about making the law as it ought to be sometimes Honourable Members uncharitably say that he is a friend of the tax-evader. Now, Sir, it so happens that under this Bill also, the Bill which is sought to be referred to Select Committee, in my humble opinion it is not the tax-evader alone who will be hit, but the honest man also will be hit. The person who by a mistake does not disclose his income will have the rule of eight years operating against him. I will refer you to page 8 of the note in which the following remarks appear:

"It will be noticed that class (a) is not limited to cases of fraudulent concealment. So long as escape or under-assessment has resulted from the assessee's non-submission of return or omission to make full disclosure, it makes little difference what the motive of the assessee in so behaving was. The natural inference from his omission is that he wished if possible, to escape proper assessment."

This is exactly my complaint. I want that if a person dishonestly evades taxation the rigours of the law may be visited upon him. But I do claim that if there is an honest person who has not concealed his income or behaved in a fraudulent way he should not be harassed by law. If your income-tax officers are not competent you make them competent; if they are inefficient you make them efficient. In 1939 this question came up before this Assembly and in 1939 section 34 was amended. Previously the words were very wide. In 1939 this Act was amended and the provision in regard to 'definite information' was put in the statute. My humble submission is that these

Provisions in section 34 in regard to definite information were very correctly put in the statute. I can understand one position. If a person says that the income-tax officers are dishonest and inefficient my reply will be that they should not be given too much power, otherwise the public will be harassed; if they are claimed to be competent and efficient there is no need to change the law at all.

Again if you look at the provisions of section 33-B which is proposed to be enacted, this power alone is sufficient to guard against the escape of any income in an honest manner. If two years are not enough for the Commissioner to find out in which case a person has been wrongly assessed by mistake of fact or law, how will the period of eight years help this department? After all human life as estimated in India is only 23 years. Eight years are too long, and by the time eight years pass the economic condition of the assessee may change to an unrecognisable extent. Therefore I will submit that in regard to honest assessee the period will be too long and change of the law would at least prejudice such hard cases; and it is debatable if we should agree to change our law according to the recommendations of the Investigation Commission. After all, Sir, the Investigation Commission has done its duty, and now it is the duty of the House to see whether the recommendations made are correct or not. We have not had sufficient time to consider these recommendations. The recommendations were made as far back as 10th January, 1948 and then they were referred to about 60 companies, etc., for getting their opinion, out of whom only 25 submitted their opinion and the rest have not submitted any opinion. Moreover, when the recommendations were in the hands of the department on the 10th January I do not understand why they were not passed on to the members of this House and only a week before we are called upon to make changes of a very vast character in a statute of this kind rather haphazardly. On these questions relating to the permanent law of the land we should be very cautious in making changes. We have just seen in another Bill passed today how one word caused trouble to 500 refugees in regard to new houses. In fact in regard to all legislation we have to be very chary. Here it involves a question of principle in which all the Governments of the world have something to teach us and something to learn from us. And we should consider all that before we change the law of this country in regard to taxation.

Now in regard to section 46 I would say that that section has been on the statute-book for a very long time and I do not know what evidence is there before the department to ask us to make a drastic change in regard to these provisions. The Income-tax Collector is armed with the powers of a decree-executing court and the Collector can collect for him all dues as if they were arrears of land revenue. Then he is also armed with other powers which I need not discuss in detail. The present power which is asked for is that he should be able to ask debtors of the assessee to pay the money in the Income-Tax Office, and if they do not pay, to record an order by way of injunction. Now, Sir, it may happen that third parties who are indebted to the assessee may have invested all this money in some business; the whole thing will be dislocated by a grant of power of this kind. I can understand that if evidence is found that the assessee is taking undue advantage of the leniency of the law and enters into fraudulent transactions, it will be a question for us then whether it will be advisable or not that the law be changed.

My submission is that in regard to many other matters it is necessary that the case should go to a Select Committee. In regard to the Hindu Joint Family, the aggregation of income from business profits is to be treated as in the case of an individual. We were expecting that the Honourable the Finance Minister would do justice to the Hindu

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Joint Family but if the profits of business are allowed to be aggregated in the manner that the Bill seeks to do there will be more injustice to the Joint Family. In regard to many other matters of detail, I would submit that the situation is clearly such that the House will be well advised to send, and will do the right thing if it allows, the Bill to go to the Select Committee.

Prof. N. G. Ranga (Madras: General): The question be now put.

Mr. Chairman: The question is:

"That the question be now put."

The motion was adopted.

Mr. Chairman: The question is:

"That the Bill be referred to a Select Committee consisting of the Honourable Shri B. K. Shanmukham Chetty, Shri T. T. Krishnamachari, Shri Mohan Lal Saksena, Shri H. V. Kamath, Prof. N. G. Ranga, Shri Bakramlal Sondhi, Pandit Thakur Das Bhargava, Shri C. Subrahmanyam, Pandit Lakshmi Kanta Maitra, Dr. B. Pattabhi Sitaramayya, Shri Arun Chandra Guha, Dr. B. V. Keskar, Mr. Tajamul Hussain, and the Mover, with instructions to report not later than the last day of the first week of the next session of the Assembly, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be five."

The motion was adopted.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Tuesday, the 6th April, 1948.